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CHAPTER 16

Sanctions, Export Controls, and Certain Other Restrictions

This chapter discusses selected developments during 2013 relating to sanctions, export controls, and certain other restrictions relating to travel or U.S. government assistance. It does not cover developments in many of the United States' longstanding financial sanctions regimes, which are discussed in detail at www.treasury.gov/resource-center/sanctions/Pages/default.aspx. It also does not cover comprehensively developments relating to the export control programs administered by the Commerce Department or the defense trade control programs administered by the State Department. Detailed information on the Commerce Department's activities relating to export controls is provided in the U.S. Department of Commerce, Bureau of Industry and Security's Annual Report to the Congress for Fiscal Year 2013, available at www.bis.doc.gov/index.php/forms-documents/doc_view/866-bis-annual-report-to-congress-for-fiscal-year-2013. Details on the State Department's defense trade control programs are available at www.pmddtc.state.gov.

A. IMPOSITION, IMPLEMENTATION, AND MODIFICATION OF SANCTIONS

1. Iran

a. Overview

In 2013, the dual-track U.S. approach to preventing Iran from gaining nuclear weapons capabilities (discussed in *Digest 2009* at 585–90 and 773–74) yielded some promising results. On November 24, 2013 the permanent five members of the Security Council plus Germany (the “P5+1”) and Iran committed to the Joint Plan of Action (“JPOA”) in Geneva. Both prior to and after conclusion of the JPOA, the United States and the international community continued to maintain multiple sanctions regimes directed at

Iran. For further discussion of the U.S. approach to Iran's nuclear program in 2013, see Chapter 19.B.5(b)

On May 15, 2013, Under Secretary of State for Political Affairs Wendy Sherman provided a written statement before the Senate Foreign Relations committee on U.S. policy toward Iran. Under Secretary Sherman's statement is excerpted below and available in full at www.state.gov/p/us/rm/2013/202684.htm.

* * * *

...Thank you for inviting me here today to discuss the Administration's approach to the multiple challenges posed by Iran—by its nuclear ambitions, its support for international terrorism and destabilizing activities in the region, and its human rights abuses at home. I want to use this opportunity to speak clearly about these challenges; to lay out the multi-vectored strategy we are pursuing to counter them; and to be clear about the consequential choices ahead for America and our allies, but especially for Iran, its rulers, and its people.

The Nuclear Challenge

Iran's nuclear activity—in violation of its international obligations and in defiance of the international community—is one of the greatest global concerns we face. A nuclear-armed Iran would pose a threat to the region, to the world, and to the future of the global nuclear proliferation regime. It would risk an arms race in a region already rife with violence and conflict. A nuclear weapon would embolden a regime that already spreads instability through its proxies and threatens chokepoints in the global economy. It would put the world's most dangerous weapons into the hands of leaders who speak openly about wiping one of our closest allies, the state of Israel, off the map. In confronting this challenge, our policy has been clear: we are determined to prevent Iran from acquiring a nuclear weapon. Our preference is to resolve this through diplomacy. However, as President Obama has stated unequivocally, we will not allow Iran to obtain a nuclear weapon, and there should be no doubt that the United States will use all elements of American power to achieve that objective.

Iran's Supreme Leader Ayatollah Khamenei has asked why it is that the international community does not believe that Iran's nuclear program is for peaceful purposes only. The answer is simple: Iran has consistently concealed its nuclear activities and continues to do so, denying required access and information to the International Atomic Energy Agency. As a signatory to the Nuclear Non-Proliferation Treaty, Iran has responsibilities to the international community, and it is that blatant disregard for those responsibilities that has made Iran the subject of four UN Security Council resolutions imposing mandatory sanctions.

* * * *

The Dual-Track Policy

Since this Administration took office in 2009, we have pursued a dual-track policy. Working with the P5+1—the five members of the UN Security Council—China, France, Russia, the United Kingdom, and the United States, plus Germany, under the auspices of the European Union—we have actively pursued a diplomatic solution to international concerns over Iran's nuclear program. As a result of Iran's continuing disregard for its international obligations, we have ratcheted up the pressure on the Iranian government. We have built and led a global

coalition to create the toughest, most comprehensive sanctions to date on the Iranian regime. The international community is united in its determination to prevent a nuclear-armed Iran.

Today, Iran is isolated and sanctions are having a real impact on the ground, exacerbated by the regime's own mismanagement of its economy. Iran exports over 1 million fewer barrels of crude oil each day than it did in 2011, costing Iran between \$3-\$5 billion per month. All 20 importers of Iranian oil have either significantly reduced or eliminated oil purchases from Iran. Financial sanctions have crippled Iran's access to the international financial system and fueled the depreciation of the value of Iran's currency to less than half of what it was last year. Foreign direct investment into Iran has decreased dramatically as major oil companies and international firms as diverse as Ernst & Young, Daimler AG, Caterpillar, ENI, Total, and hundreds more have divested themselves from Iran. The International Monetary Fund projects the Iranian economy will contract in 2013, a significant decrease from the over 7 percent growth six years ago, and far below the performance of neighboring oil-exporting countries. Put simply, the Iranian economy is in a downward spiral, with no prospect for near-term relief.

And we continue to increase the pressure. Iranian oil exports will continue to decline as we implement the law through our engagement with the last remaining six importers of Iranian oil. Iran's currency will remain volatile as we block Iran's revenue streams and block its access to funds held abroad. And we will continue to track, identify, and designate individuals and entities assisting Iran's proliferation efforts and attempting to evade sanctions on Iran. Last week, the State Department sanctioned four Iranian companies and one individual for providing the Iranian government with goods, technology, and services that increase Iran's ability to enrich uranium, which is prohibited by UN Security Council resolutions. On March 14, the State and Treasury Departments imposed sanctions on Dr. Dimitris Cambis and his company Impire Shipping for operating vessels on behalf of the National Iranian Tanker Company (NITC) that disguised the Iranian origin of the crude oil. On July 1, the Iran Freedom and Counter-Proliferation Act of 2012 takes full effect, targeting an array of sectors and industries in Iran. Looking forward, as long as Iran continues on its current unproductive path, the Administration will continue to assess and implement potential additional sanctions on sectors and industries that can serve as pressure points. We look forward to continued strong collaboration with members of Congress to develop smart sanctions and increase pressure on the regime, while maintaining the strong coalition we have built through sustained diplomatic efforts with partners.

In fact, one of the keys to our successful ratcheting up of the pressure on Iran is that we are not doing so alone. The European Union has enacted its own stringent sanctions regime, including an oil import ban that resulted in all 27 EU member states ceasing oil purchases from Iran. Australia, Canada, South Korea, Japan, and others have enacted their own sets of domestic measures, strengthening the international sanctions regime and sending a clear message to Iran: adhere to your international obligations, or face increasing pressure from the international community. And, even among partners who are frankly skeptical of sanctions, we have seen robust implementation of UN Security Council resolutions and cooperation on specific sanctions issues. We continue to coordinate closely with all of our international partners, ensuring stringent implementation of existing sanctions and encouraging strong domestic measures on Iran. As we move forward, it will be critical that we continue to move together and not take steps that undo the progress made so far. Doing such would signal divisions to Iran that it could and likely would exploit.

Even as we significantly increase pressure on the Iranian regime, we remain committed to ensuring that legitimate, humanitarian trade can continue for the benefit of the Iranian people.

We take no pleasure in any hardship our sanctions might cause the Iranian people in their everyday lives, and it is U.S. policy to not target Iranian imports of humanitarian items. We have worked hard to ensure U.S. regulations contain an explicit exception from sanctions for transactions for the sale of agricultural commodities, food, medicine, or medical devices to Iran as long as the transactions do not involve a designated entity or otherwise proscribed conduct. And when natural disasters have struck Iran, we have been ready to assist. Following a tragic earthquake in northwest Iran in August 2012, the Administration issued a general license to facilitate U.S. support to the Iranian people as they responded to and rebuilt from the natural disaster. In all our efforts on Iran, we have demonstrated that supporting the Iranian people and pressuring the policies of their government are not mutually exclusive.

As we have built unprecedented pressure on the Iranian regime, we have also intensified our efforts towards pursuing a diplomatic solution to the nuclear issue. Since his first days in office, the President has emphasized our readiness, working with members of the P5+1 to seek a negotiated resolution regarding Iran's nuclear program. The P5+1 has been incredibly unified, and we have worked closely and well with the Russians and Chinese. On February 26, 2013, the P5+1 met with Iranian representatives in Almaty, where the P5+1 jointly presented Iran with an updated, balanced proposal that offered Iran a real opportunity to take steps toward reducing tensions and creating the time and space to negotiate a comprehensive solution to the nuclear issue. As in prior talks, Iran was presented with a strong and united message: address the international's community's concerns or face mounting pressure. Interestingly, Iran's initial public response was positive and they signaled a potential turning point.

* * * *

We have approached these negotiations realistically, conscious of our difficult history. We continue to seek concrete results in our talks, not empty promises. The onus is on Iran.

Support for Terrorism

Beyond its illicit nuclear activity, we also have grave concerns about Iran's destabilizing activities in the Middle East, particularly its support for Bashar Asad in Syria; its support for terrorist organizations like Hizballah; and its unacceptable attacks on innocent civilians worldwide. These activities are not going unchecked.

Iran is the world's foremost state sponsor of terrorism, which it uses as a strategic tool of its foreign policy. Led by the Islamic Revolutionary Guard Corps (IRGC)-Qods Force and the Ministry of Intelligence and Security (MOIS), the "Iran Threat Network" comprises an alliance of surrogates, proxies, and partners such as Hizballah, HAMAS, and Iraqi Shi'a militants, among others. Iran funds, trains, and equips these terrorist organizations, in whole or in part, to use in attacks around the world. This clandestine threat network destabilizes countries throughout the Middle East and threatens regional security. Iran's leaders have aimed most of their threats at one of our closest allies, blatantly declaring their desire to see the destruction of the state of Israel. We have a moral obligation to ensure that Iran never has the tools to make good on that threat.

* * * *

Regional Meddling and Support for Asad

In Syria, Iran has made it clear that it fears losing its closest ally and will stop at no cost, borne by both the Syrian and Iranian people, to prop up the Asad regime. ...

* * * *

Human Rights

We are equally disturbed by the regime's ongoing campaign of repression against its own people. Such oppression has included the harassment and intimidation of family members of those who speak out for freedoms, the torture of political prisoners, and the limitation of freedom of expression and access to information. These acts of aggression have created a culture of fear in which few dare to voice dissent or challenge regime officials. Students, lawyers, journalists, and bloggers, ethnic and religious minorities, artists and human rights activists are all targets for abuse, intimidation, or discrimination.

Labeled by press advocacy group Reporters Without Borders as an "enemy of the internet," Iran filters online content and blocks access to the internet to prevent Iranian people from acquiring knowledge and unbiased information about their own country and the outside world. We are committed to raise the cost of repression and help Iranians break through the "electronic curtain" the regime is erecting to communicate with one another and share their story with the world.

* * * *

Outreach to the Iranian People

Coupled with our concerns about human rights are our concerns about the well-being of the Iranian people. Every day, we hear from the Iranian people directly through our public diplomacy programs and Farsi-language social media platforms. The Virtual Embassy Tehran, launched in December 2011, has over 2 million hits and our Farsi-language Facebook, Twitter, Google+, and YouTube channel have also been enormously successful. The 170 videos on our YouTube channel have more than 1 million views and our Facebook page has over 120,000 fans, 60 percent of whom are inside of Iran and who access our sites even though the Iranian regime blocks the site.

What we see through our interactions is that the Iranian people are being detrimentally affected by the misplaced priorities, corruption and mismanagement of their government. Instead of meeting the needs of its own people, the Iranian regime has chosen to spend enormous amounts of its money and resources to support the Asad regime as well as its militant proxies around the world, and to pursue the development of weapons of mass destruction. Instead of investing in its people, Iran continues to restrain their vast potential through censorship, oppression, and severe limitations on their social, political and even academic freedoms.

As the President and the Secretary have said, in the United States our own communities have been enhanced by the contributions of Iranian Americans. We know that the Iranian people come from a great civilization whose accomplishments have earned the respect of the world. That is why in his 2013 Nowruz message, the President emphasized that there is no good reason for Iranians to be denied the opportunities enjoyed by people in other countries.

Iranians deserve the same freedoms and rights as people everywhere and all nations would benefit from the talents and creativity of the Iranian people, especially its youth. It is a shame that much of the world realizes this and the Iranian government has yet to do so.

* * * *

On November 23, 2013, the White House released a fact sheet on the initial understandings reached by the P5+1 and Iran in Geneva regarding Iran's nuclear program, subsequently referred to as the Joint Plan of Action. The White House fact sheet is excerpted below and available at www.whitehouse.gov/the-press-office/2013/11/23/fact-sheet-first-step-understandings-regarding-islamic-republic-iran-s-n.

* * * *

...Today, the P5+1 and Iran reached a set of initial understandings that halts the progress of Iran's nuclear program and rolls it back in key respects. These are the first meaningful limits that Iran has accepted on its nuclear program in close to a decade. The initial, six month step includes significant limits on Iran's nuclear program and begins to address our most urgent concerns including Iran's enrichment capabilities; its existing stockpiles of enriched uranium; the number and capabilities of its centrifuges; and its ability to produce weapons-grade plutonium using the Arak reactor. The concessions Iran has committed to make as part of this first step will also provide us with increased transparency and intrusive monitoring of its nuclear program. In the past, the concern has been expressed that Iran will use negotiations to buy time to advance their program. Taken together, these first step measures will help prevent Iran from using the cover of negotiations to continue advancing its nuclear program as we seek to negotiate a long-term, comprehensive solution that addresses all of the international community's concerns.

In return, as part of this initial step, the P5+1 will provide limited, temporary, targeted, and reversible relief to Iran. This relief is structured so that the overwhelming majority of the sanctions regime, including the key oil, banking, and financial sanctions architecture, remains in place. The P5+1 will continue to enforce these sanctions vigorously. If Iran fails to meet its commitments, we will revoke the limited relief and impose additional sanctions on Iran.

The P5+1 and Iran also discussed the general parameters of a comprehensive solution that would constrain Iran's nuclear program over the long term, provide verifiable assurances to the international community that Iran's nuclear activities will be exclusively peaceful, and ensure that any attempt by Iran to pursue a nuclear weapon would be promptly detected. The set of understandings also includes an acknowledgment by Iran that it must address all United Nations Security Council resolutions—which Iran has long claimed are illegal—as well as past and present issues with Iran's nuclear program that have been identified by the International Atomic Energy Agency (IAEA). This would include resolution of questions concerning the possible military dimension of Iran's nuclear program, including Iran's activities at Parchin. As part of a comprehensive solution, Iran must also come into full compliance with its obligations under the Non-Proliferation Treaty (NPT) and its obligations to the IAEA. With respect to the comprehensive solution, nothing is agreed until everything is agreed. Put simply, this first step expires in six months, and does not represent an acceptable end state to the United States or our P5+1 partners.

* * * *

Putting Limited Relief in Perspective

In total, the approximately \$7 billion in relief is a fraction of the costs that Iran will continue to incur during this first phase under the sanctions that will remain in place. The vast majority of Iran's approximately \$100 billion in foreign exchange holdings are inaccessible or restricted by sanctions.

In the next six months, Iran's crude oil sales cannot increase. Oil sanctions alone will result in approximately \$30 billion in lost revenues to Iran—or roughly \$5 billion per month—compared to what Iran earned in a six month period in 2011, before these sanctions took effect. While Iran will be allowed access to \$4.2 billion of its oil sales, nearly \$15 billion of its revenues during this period will go into restricted overseas accounts. In summary, we expect the balance of Iran's money in restricted accounts overseas will actually increase, not decrease, under the terms of this deal.

Maintaining Economic Pressure on Iran and Preserving Our Sanctions Architecture

During the first phase, we will continue to vigorously enforce our sanctions against Iran, including by taking action against those who seek to evade or circumvent our sanctions.

- Sanctions affecting crude oil sales will continue to impose pressure on Iran's government. Working with our international partners, we have cut Iran's oil sales from 2.5 million barrels per day (bpd) in early 2012 to 1 million bpd today, denying Iran the ability to sell almost 1.5 million bpd. That's a loss of more than \$80 billion since the beginning of 2012 that Iran will never be able to recoup. Under this first step, the EU crude oil ban will remain in effect and Iran will be held to approximately 1 million bpd in sales, resulting in continuing lost sales worth an additional \$4 billion per month, every month, going forward.
- Sanctions affecting petroleum product exports to Iran, which result in billions of dollars of lost revenue, will remain in effect.
- The vast majority of Iran's approximately \$100 billion in foreign exchange holdings remain inaccessible or restricted by our sanctions.
- Other significant parts of our sanctions regime remain intact, including:
 - Sanctions against the Central Bank of Iran and approximately two dozen other major Iranian banks and financial actors;
 - Secondary sanctions, pursuant to the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) as amended and other laws, on banks that do business with U.S.-designated individuals and entities;
 - Sanctions on those who provide a broad range of other financial services to Iran, such as many types of insurance; and,
 - Restricted access to the U.S. financial system.
- All sanctions on over 600 individuals and entities targeted for supporting Iran's nuclear or ballistic missile program remain in effect.
- Sanctions on several sectors of Iran's economy, including shipping and shipbuilding, remain in effect.
- Sanctions on long-term investment in and provision of technical services to Iran's energy sector remain in effect.
- Sanctions on Iran's military program remain in effect.

- Broad U.S. restrictions on trade with Iran remain in effect, depriving Iran of access to virtually all dealings with the world's biggest economy
- All UN Security Council sanctions remain in effect.
- All of our targeted sanctions related to Iran's state sponsorship of terrorism, its destabilizing role in the Syrian conflict, and its abysmal human rights record, among other concerns, remain in effect.

A Comprehensive Solution

During the six-month initial phase, the P5+1 will negotiate the contours of a comprehensive solution. Thus far, the outline of the general parameters of the comprehensive solution envisions concrete steps to give the international community confidence that Iran's nuclear activities will be exclusively peaceful. With respect to this comprehensive resolution: nothing is agreed to with respect to a comprehensive solution until everything is agreed to. Over the next six months, we will determine whether there is a solution that gives us sufficient confidence that the Iranian program is peaceful. If Iran cannot address our concerns, we are prepared to increase sanctions and pressure.

Conclusion

In sum, this first step achieves a great deal in its own right. Without this phased agreement, Iran could start spinning thousands of additional centrifuges. It could install and spin next-generation centrifuges that will reduce its breakout times. It could fuel and commission the Arak heavy water reactor. It could grow its stockpile of 20% enriched uranium to beyond the threshold for a bomb's worth of uranium. Iran can do none of these things under the conditions of the first step understanding.

Furthermore, without this phased approach, the international sanctions coalition would begin to fray because Iran would make the case to the world that it was serious about a diplomatic solution and we were not. We would be unable to bring partners along to do the crucial work of enforcing our sanctions. With this first step, we stop and begin to roll back Iran's program and give Iran a sharp choice: fulfill its commitments and negotiate in good faith to a final deal, or the entire international community will respond with even more isolation and pressure.

The American people prefer a peaceful and enduring resolution that prevents Iran from obtaining a nuclear weapon and strengthens the global non-proliferation regime. This solution has the potential to achieve that. Through strong and principled diplomacy, the United States of America will do its part for greater peace, security, and cooperation among nations.

* * * *

The Joint Plan of Action ("JPOA"), finalized on November 24, 2013 in Geneva, appears below (with footnotes omitted) and is available at www.whitehouse.gov/sites/default/files/foreign/jointplanofaction24november2013thefinal.pdf. Secretary Kerry testified before the House Foreign Affairs Committee on December 10, 2013 regarding the JPOA. Secretary Kerry's testimony is available at www.state.gov/secretary/remarks/2013/12/218578.htm. Under Secretary Sherman also testified about the JPOA before the Senate Committee on Banking, Housing, and Urban

Affairs on December 12, 2013. Her testimony is available at www.state.gov/p/us/rm/2013/218639.htm.

* * * *

Preamble

The goal for these negotiations is to reach a mutually-agreed long-term comprehensive solution that would ensure Iran's nuclear programme will be exclusively peaceful. Iran reaffirms that under no circumstances will Iran ever seek or develop any nuclear weapons. This comprehensive solution would build on these initial measures and result in a final step for a period to be agreed upon and the resolution of concerns. This comprehensive solution would enable Iran to fully enjoy its right to nuclear energy for peaceful purposes under the relevant articles of the NPT in conformity with its obligations therein. This comprehensive solution would involve a mutually defined enrichment programme with practical limits and transparency measures to ensure the peaceful nature of the programme. This comprehensive solution would constitute an integrated whole where nothing is agreed until everything is agreed. This comprehensive solution would involve a reciprocal, step-by-step process, and would produce the comprehensive lifting of all UN Security Council sanctions, as well as multilateral and national sanctions related to Iran's nuclear programme.

There would be additional steps in between the initial measures and the final step, including, among other things, addressing the UN Security Council resolutions, with a view toward bringing to a satisfactory conclusion the UN Security Council's consideration of this matter. The E3+3 and Iran will be responsible for conclusion and implementation of mutual near-term measures and the comprehensive solution in good faith. A Joint Commission of E3/EU+3 and Iran will be established to monitor the implementation of the near-term measures and address issues that may arise, with the IAEA responsible for verification of nuclear-related measures. The Joint Commission will work with the IAEA to facilitate resolution of past and present issues of concern.

Elements of a first step

The first step would be time-bound, with a duration of 6 months, and renewable by mutual consent, during which all parties will work to maintain a constructive atmosphere for negotiations in good faith.

Iran would undertake the following voluntary measures:

- From the existing uranium enriched to 20%, retain half as working stock of 20% oxide for fabrication of fuel for the TRR. Dilute the remaining 20% UF₆ to no more than 5%. No reconversion line.
- Iran announces that it will not enrich uranium over 5% for the duration of the 6 months.
- Iran announces that it will not make any further advances of its activities at the Natanz Fuel Enrichment Plant, Fordow, or the Arak reactor, designated by the IAEA as IR-40.
- Beginning when the line for conversion of UF₆ enriched up to 5% to UO₂ is ready, Iran has decided to convert to oxide UF₆ newly enriched up to 5% during the 6 month period, as provided in the operational schedule of the conversion plant declared to the IAEA.
- No new locations for the enrichment.
- Iran will continue its safeguarded R&D practices, including its current enrichment R&D practices, which are not designed for accumulation of the enriched uranium.

- No reprocessing or construction of a facility capable of reprocessing.
- Enhanced monitoring:
 - Provision of specified information to the IAEA, including information on Iran's plans for nuclear facilities, a description of each building on each nuclear site, a description of the scale of operations for each location engaged in specified nuclear activities, information on uranium mines and mills, and information on source material. This information would be provided within three months of the adoption of these measures.
 - Submission of an updated DIQ for the reactor at Arak, designated by the IAEA as the IR-40, to the IAEA.
 - Steps to agree with the IAEA on conclusion of the Safeguards Approach for the reactor at Arak, designated by the IAEA as the IR-40.
 - Daily IAEA inspector access when inspectors are not present for the purpose of Design Information Verification, Interim Inventory Verification, Physical Inventory Verification, and unannounced inspections, for the purpose of access to offline surveillance records, at Fordow and Natanz.
 - IAEA inspector managed access to:
 - centrifuge assembly workshops;
 - centrifuge rotor production workshops and storage facilities; and,
 - uranium mines and mills.

In return, the E3/EU+3 would undertake the following voluntary measures:

- Pause efforts to further reduce Iran's crude oil sales, enabling Iran's current customers to purchase their current average amounts of crude oil. Enable the repatriation of an agreed amount of revenue held abroad. For such oil sales, suspend the EU and U.S. sanctions on associated insurance and transportation services.
- Suspend U.S. and EU sanctions on:
 - Iran's petrochemical exports, as well as sanctions on associated services.
 - Gold and precious metals, as well as sanctions on associated services.
- Suspend U.S. sanctions on Iran's auto industry, as well as sanctions on associated services.
- License the supply and installation in Iran of spare parts for safety of flight for Iranian civil aviation and associated services. License safety related inspections and repairs in Iran as well as associated services.
- No new nuclear-related UN Security Council sanctions.
- No new EU nuclear-related sanctions.
- The U.S. Administration, acting consistent with the respective roles of the President and the Congress, will refrain from imposing new nuclear-related sanctions.
- Establish a financial channel to facilitate humanitarian trade for Iran's domestic needs using Iranian oil revenues held abroad. Humanitarian trade would be defined as transactions involving food and agricultural products, medicine, medical devices, and medical expenses incurred abroad. This channel would involve specified foreign banks and non-designated Iranian banks to be defined when establishing the channel.
 - This channel could also enable:
 - transactions required to pay Iran's UN obligations; and,
 - direct tuition payments to universities and colleges for Iranian students studying abroad, up to an agreed amount for the six month period.
- Increase the EU authorisation thresholds for transactions for non-sanctioned trade to an agreed

amount.

Elements of the final step of a comprehensive solution

The final step of a comprehensive solution, which the parties aim to conclude negotiating and commence implementing no more than one year after the adoption of this document, would:

- Have a specified long-term duration to be agreed upon.
- Reflect the rights and obligations of parties to the NPT and IAEA Safeguards Agreements.
- Comprehensively lift UN Security Council, multilateral and national nuclear-related sanctions, including steps on access in areas of trade, technology, finance, and energy, on a schedule to be agreed upon.
- Involve a mutually defined enrichment programme with mutually agreed parameters consistent with practical needs, with agreed limits on scope and level of enrichment activities, capacity, where it is carried out, and stocks of enriched uranium, for a period to be agreed upon.
- Fully resolve concerns related to the reactor at Arak, designated by the IAEA as the IR-40. No reprocessing or construction of a facility capable of reprocessing.
- Fully implement the agreed transparency measures and enhanced monitoring. Ratify and implement the Additional Protocol, consistent with the respective roles of the President and the Majlis (Iranian parliament).
- Include international civil nuclear cooperation, including among others, on acquiring modern light water power and research reactors and associated equipment, and the supply of modern nuclear fuel as well as agreed R&D practices.

Following successful implementation of the final step of the comprehensive solution for its full duration, the Iranian nuclear programme will be treated in the same manner as that of any non-nuclear weapon state party to the NPT.

* * * *

b. Implementation of UN Security Council resolutions

The UN Security Council has adopted four resolutions under Article 41 of Chapter VII of the UN Charter imposing sanctions targeting those providing support to Iran's nuclear and ballistic missile programs: Resolution 1929 (2010), Resolution 1803 (2008), Resolution 1747 (2007), and Resolution 1737 (2006). U.N. Docs. S/RES/1929, S/RES/1803, S/RES/1747, and S/RES/1737. See *Digest 2010* at 632-45, *Digest 2008* at 969-75, *Digest 2007* at 1031-36, and *Digest 2006* at 1280-84 for discussions of the Security Council's Iran resolutions. In Resolution 1929 (2010), the Council established, for an initial period of one year, a Panel of Experts to assist the Committee in carrying out its mandate. The Panel's mandate has been renewed yearly, most recently in Resolution 2105 (2013).

In 2013, the United States continued to demonstrate strong support for full implementation of the Security Council resolutions on Iran through statements at the Security Council and actions taken to implement the resolutions. On March 6, 2013, U.S.

Ambassador to the UN Susan E. Rice* addressed the Security Council at a briefing by the Iran Sanctions Committee. Her remarks are excerpted below and available in full at <http://usun.state.gov/briefing/statements/205684.htm>.

* * * *

The Iranian nuclear issue remains one of the gravest threats to international security and a top priority for the Security Council. We meet today at a time of new opportunities but growing risks. In recent weeks, the IAEA Director-General reaffirmed yet again that Iran continues to advance its nuclear program and obstruct the IAEA's investigation into the program's possible military dimensions by refusing to grant the IAEA access to the Parchin site and to documents, personnel and equipment requested by the agency. These actions, as well as Iran's continued enrichment and heavy-water related activities, are in clear violation of this Council's demands.

And more alarming still, the IAEA Director-General has confirmed that Iran is now further contravening UN Security Council resolutions by installing hundreds of second-generation centrifuges that could significantly increase its uranium enrichment capacity. The installation of these centrifuges, as well as Iran's stockpiling of twenty percent-enriched uranium and continued enrichment at the Fordow facility, are cause for serious concern.

These actions are unnecessary and thus provocative. Iran already has enough enriched uranium to fuel the Tehran Research Reactor for at least a decade. Increasing this capacity—without any clear civilian use—makes no sense. Iran's actions neither build international confidence nor bring us closer to a comprehensive and peaceful solution. On the contrary, they raise the world's concerns.

For this very reason, the work of the Iran Sanctions Committee is vital. As long as Iran rejects its international obligations, we must be resolute in implementing fully the sanctions this Council has imposed.

In recent months, we've witnessed troubling new violations of these sanctions. In January, Yemen seized a vessel transporting a very large cache of sophisticated Iranian arms, ammunition and explosives in violation of Resolution 1747. These arms could have destabilized Yemen's fragile transition. We urge the Committee, with the support of the Panel of Experts, to investigate this case rigorously and work with the Council to craft a worthy response.

We have also observed more public statements acknowledging Iran's illicit arms smuggling. Representatives of Hamas, Hezbollah, Palestinian Islamic Jihad and even Iran itself are now publicly admitting to activities that violate UN sanctions. The Committee should consider these statements as additional proof of Iran's blatant disregard for its obligations and follow up to the fullest extent possible.

The Committee is now also assessing Iranian missile launches that violated Resolution 1929. These launches allow Iran to refine and develop a technology that—if ever combined with weapons of mass destruction—would constitute an intolerable threat to international peace and security. We urge the Committee, in line with its mandate, to take swift and sure action in response, including imposing targeted sanctions on those responsible for these violations.

* Editor's Note: Susan Rice left her post as U.S. Ambassador to the UN on June 25, 2013 to become National Security Adviser to President Obama. On August 5, 2013 Samantha Power was sworn in as U.S. Ambassador to the UN.

Each and every violation of UN sanctions is a serious matter. It is our collective responsibility to report on these cases, to support efforts to investigate them, and to act decisively when investigations are completed. Responding effectively to these incidents bolsters both the Council's credibility and the efficiency of diplomatic efforts to resolve the Iranian nuclear issue.

The United States remains committed to a diplomatic solution and, therefore, we welcome the recently resumed P5 +1 dialogue with Iran. But let us not forget that dialogue is only a means to an end.

Our goal remains a durable and comprehensive solution to the Iranian nuclear issue which restores international confidence in the exclusively peaceful nature of Iran's nuclear program in accordance with the NPT and in compliance with all relevant UN Security Council and IAEA Board of Governors' resolutions. As a first step, we seek to address Iran's most significant nuclear activities—the production and accumulation of near-20% enriched uranium and the installation of additional centrifuges at Fordow. In that event, the P5+1 countries have demonstrated that we are willing to take steps to respond to Iran's expressed concerns.

The talks between the P5+1 and Iran in Almaty were useful, but we must see whether real progress towards a negotiated solution can result from this renewed process. The process cannot continue indefinitely or be used as a stalling mechanism.

Therefore, we remain committed to the dual-track approach – mounting pressure on Iran as we pursue meaningful dialogue in good faith. Working together, we can continue to clarify for Iran the consequences of its actions and show Iran the benefits of choosing cooperation over provocation.

* * * *

On September 5, 2013, Ambassador Samantha Power delivered remarks at a Security Council briefing on Iran and Resolution 1737. Her remarks, excerpted below and available at <http://usun.state.gov/briefing/statements/213854.htm>, raise the hopes of progress in planned negotiations with Iran after its election of a new president, but also emphasize the need to maintain sanctions.

* * * *

Like others here, the United States hopes that the inauguration of President Rouhani creates an opportunity for Iran to act quickly to resolve the international community's serious concerns about Iran's nuclear intentions.

Unfortunately, we have not yet seen any clear signs that Iran is committed to addressing the most pressing concerns about its nuclear program. To the contrary, recent developments trouble us.

Just last week, IAEA Director General Amano reported that Iran continues to march forward with its prohibited nuclear activities. The Director General stated that “the agency will not be in a position to provide credible assurance about the absence of undeclared material and activities in Iran unless and until Iran provides the necessary cooperation.” This is a conclusion we have heard repeatedly from the IAEA.

Rather than take steps to meet the obligations imposed by this Security Council, Iran is installing advanced centrifuges, which may be two to three times more efficient at enriching

uranium than its current centrifuges. The Director General also reported that Iran continues adding to its stockpile of enriched uranium. Iran's expanded enrichment, its construction of the IR-40 heavy water reactor at Arak, and other examples raised by the Director General not only violate multiple Security Council resolutions, but they move us further away from a negotiated solution. Later this month the IAEA will hold a new round of talks with Iran. At these talks, we strongly encourage Iran to adopt a cooperative and transparent approach with the IAEA.

In the meantime, and until concrete progress has been made, this Committee must step up its efforts to improve sanctions implementation. In recent months, the Committee's work has not kept pace with the threat. We are disappointed, as the President indicated, that despite the best efforts of the chair to find consensus, this Committee often fails to take even routine steps to implement its technical mandate. This must change.

As a first step, the Committee should implement the recommendations contained in the May 2013 Final Report of the Panel of Experts. These recommendations are reasonable. If implemented, they would provide clarity and guidance to states about aspects of the sanctions. The Committee should also sign an agreement with Interpol to help disseminate information about individuals subject to targeted sanctions. Other sanctions committees routinely take such measures to implement the Council's resolutions. In this Committee, however, some members have politicized these actions and prevented the Committee from doing its job.

Even more critical, the Committee must improve its ability to respond to Iran's sanctions violations. The Committee should immediately respond to Iran's July 2012 ballistic missile launches, which were a clear violation of Resolution 1929. An effective response to this violation would include new targeted sanctions on those responsible. The Committee should also follow up vigorously on violations involving Iran's attempts to procure proliferation sensitive items.

Failure to address these and other violations undermines the Council's credibility and authority.

In line with its mandate, the Committee must do more to address Iran's arms smuggling. Iran's steady supply of weapons and military support to extremist groups clearly violates resolution 1747. In addition to violating sanctions, this assistance directly threatens stability in Yemen, Lebanon, Gaza, Iraq and other regions. Needless to say, Iran's longstanding military support to the Assad regime is, under the current circumstances, simply unconscionable.

Mr. President, even in light of Iran's troubling actions, we remain convinced that principled diplomacy remains the best tool to achieve a comprehensive and peaceful solution to the international community's serious concerns.

We would welcome a constructive sign that Iran may be prepared to engage substantively and seriously with the international community. If Iran chooses to do so, then it will find a willing partner in the United States. We hope that Iran's new leadership chooses this path. Until Iran decides to meet its obligations, the Committee's work remains critical to the diplomacy of holding Iran accountable to this Council and to the broader international community.

* * * *

c. U.S. sanctions and other controls

In 2013, President Obama again continued the national emergency under IEEPA with respect to Iran (78 Fed. Reg. 16,395 (Mar. 14, 2013)), thereby maintaining the existing sanctions program. The United States also implemented additional sanctions intended

to pressure Iran to comply with its international obligations. One new executive order was issued. Additional sanctions specific to Iran are described below. Further information on Iran sanctions is available at www.state.gov/e/eb/tfs/spi/iran/index.htm and www.treasury.gov/resource-center/sanctions/Programs/Pages/iran.aspx.

(1) *E.O. 13553*

President Obama issued Executive Order 13553, “Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions” in 2010. See *Digest 2010* at 656-60. On May 30, 2013, OFAC designated one individual pursuant to E.O. 13553, Asghar MIR-HEJAZI. 78 Fed. Reg. 39,064 (June 28, 2013). A May 30, 2013 State Department press statement, available at www.state.gov/r/pa/prs/ps/2013/05/210102.htm, describes the basis for designating Mir-Hejazi:

Asghar Mir-Hejazi is being designated pursuant to E.O. 13553 for supporting the commission of serious human rights abuses in Iran on or after June 12, 2009, as well as providing material support to the IRGC and the Ministry of Intelligence and Security (MOIS). Mir-Hejazi is the Deputy Chief of Staff to the Supreme Leader, and is closely involved in all discussions and deliberations related to military and foreign affairs. After the disputed 2009 election, Mir-Hejazi played a leading role in suppressing the unrest in Iran.

(2) *E.O. 13599*

President Obama issued Executive Order 13599, “Blocking Property of the Government of Iran and Iranian Financial Institutions,” in 2012. See *Digest 2012* at 504-06. On February 20, 2013, OFAC published in the Federal Register a list of 110 entities and vessels identified as the Government of Iran, Iranian financial institutions, or property or interest in property of the Government of Iran under the Iranian Transactions and Sanctions Regulations (the “ITSR”), 31 CFR part 560, and Executive Order 13599. 78 Fed. Reg. 11,950 (Feb. 20, 2013). On February 22, 2013, OFAC published a list of 37 vessels identified as property owned or controlled by the Government of Iran under the ITSR and E.O. 13599. 78 Fed. Reg. 12,420 (Feb. 22, 2013).

Effective March 14, 2013, OFAC identified one individual and fourteen entities as the Government of Iran, and eight vessels as the property of the Government of Iran pursuant to E.O. 13599. 78 Fed. Reg. 19,075 (Mar. 28, 2013). On May 9, 2013 OFAC identified eight vessels as property in which the Government of Iran has an interest that is blocked pursuant to E.O. 13599. 78 Fed. Reg. 29,813 (May 21, 2013). Also on May 9, 2013, OFAC identified another entity as meeting the definition of the Government of Iran under the ITSR and E.O. 13599: Sambouk Shipping FZC. 78 Fed. Reg. 30,397 (May 22, 2013). On May 23, 2013, OFAC identified six additional individuals as meeting the definition of the Government of Iran pursuant to E.O. 13599 and the ITSR. 78 Fed. Reg.

33,470 (June 4, 2013). On June 4, 2013, OFAC identified 38 entities as meeting the definition of the Government of Iran pursuant to E.O. 13599 and the ITSR. 78 Fed. Reg. 37,664 (June 21, 2013).

On September 6, 2013, OFAC identified six individuals and four companies as meeting the definition of the Government of Iran pursuant to the Order and the ITSR: Seyed Nasser Mohammad SEYYEDI; Reza PARSAEI; Seyyed Mohammad Ali Khatibi TABATABAEI; Mahmoud ZIRACCHIAN ZADEH; Seyed Mahmoud MOHADDES; Mohammad MOINIE; Swiss Management Services SARL; KASB International LLC; Petro Royal FZE; AA Energy FZCO. 78 Fed. Reg. 57,001 (Sep. 16, 2013).

(3) *Iran Sanctions Act, as amended*

As discussed in *Digest 2012* at 509-11, Congress amended the Iran Sanctions Act (“ISA”) in 2012 with passage of the Iran Threat Reduction Act and Syria Human Rights Act of 2012 (“TRA”) (Pub. L. 112–158). OFAC amended the Iranian Financial Sanctions Regulations (“IFSR”) to implement sections 503 and 504 of the TRA, which amended section 1245 of the National Defense Authorization Act for Fiscal Year 2012; and section 1, portions of section 6, and other related provisions of Executive Order 13622 of July 30, 2012. E.O. 13622 is discussed in *Digest 2012* at 507-9. Excerpts below are from the background section of the Federal Register Notice of the IFSR amendments. 78 Fed. Reg. 16,403 (Mar. 15, 2013).

* * * *

The Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) originally published the Iranian Financial Sanctions Regulations, 31 CFR part 561 (the “IFSR”), on August 16, 2010 (75 FR 49836), to implement subsections 104(c) and (d) and other related provisions of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111-195) (22 U.S.C. 8501-8551) (“CISADA”), which had been signed into law by the President on July 1, 2010. Subsection 104(c) of CISADA requires the Secretary of the Treasury to prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account for a foreign financial institution that the Secretary finds knowingly engages in specified sanctionable activities.

On February 27, 2012, OFAC amended the IFSR and reissued them in their entirety (77 FR 11724), in order to implement section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81) (22 U.S.C. 8513a) (“NDAA”), which had been signed into law by the President on December 31, 2011. Section 1245(d)(1) of the NDAA provides for the President to prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran or another Iranian financial institution designated by the Secretary of the Treasury pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (“IEEPA”).

Section 1245(d)(2) of the NDAA excepted transactions for the sale of food, medicine, or medical devices to Iran from the imposition of sanctions under section 1245(d)(1). Section 1245(d)(3) of the NDAA limited the imposition of sanctions pursuant to section 1245(d)(1) on foreign financial institutions owned or controlled by the government of a foreign country, including the central bank of a foreign country, to significant transactions for the sale or purchase of petroleum or petroleum products to or from Iran. Section 1245(d)(4)(D) of the NDAA provided for an exception from the imposition of sanctions pursuant to section 1245(d)(1) on any foreign financial institution if the President determines and periodically reports to Congress that the country with primary jurisdiction over that foreign financial institution has significantly reduced its crude oil purchases from Iran during the 180-day period preceding the report.

On July 30, 2012, invoking the authority of, *inter alia*, IEEPA, the President issued Executive Order 13622, “Authorizing Additional Sanctions With Respect to Iran” (77 FR 45897, August 2, 2012) (“E.O. 13622”). The President issued E.O. 13622 to take additional steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995, particularly in light of the Government of Iran’s use of revenues from petroleum, petroleum products, and petrochemicals for illicit purposes, Iran’s continued attempts to evade international sanctions through deceptive practices, and the unacceptable risk posed to the international financial system by Iran’s activities.

Section 1(a) of E.O. 13622 authorizes the Secretary of the Treasury, in consultation with the Secretary of State and subject to certain exceptions, to impose correspondent and payable-through account sanctions on foreign financial institutions determined to have knowingly conducted or facilitated any significant financial transaction with the National Iranian Oil Company (“NIOC”); with Naftiran Intertrade Company (“NICO”); or for the purchase or acquisition of petroleum, petroleum products, or petrochemical products from Iran. Section 10 of E.O. 13622 defines the terms NIOC and NICO as including any entity owned or controlled by, or operating for or on behalf of, respectively, NIOC and NICO.

Section 1(c) of E.O. 13622 provides that sanctions under subsections 1(a)(i) and (ii) for transactions with NIOC or NICO or for the purchase or acquisition of petroleum or petroleum products from Iran will apply only if (1) the President determines under subsections 1245(d)(4)(B) and (C) of the NDAA that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the purchase of petroleum and petroleum products from Iran by or through foreign financial institutions; and (2) a significant reduction exception under subsection 1245(d)(4)(D) of the NDAA does not apply with respect to the transaction.

Thus, transactions with NIOC or NICO or for the purchase or acquisition of petroleum or petroleum products from Iran are excepted from the imposition of sanctions under section 1(a) of E.O. 13622 if the transaction qualifies for the significant reduction exception under subsection 1245(d)(4)(D) of the NDAA. Transactions for the purchase or acquisition of petrochemical products from Iran are subject to sanctions under section 1(a) of E.O. 13622 regardless of whether the President makes the determination that there is a sufficient supply of petroleum and petroleum products under subsections 1245(d)(4)(B) and (C) of the NDAA or whether a significant reduction exception under subsection 1245(d)(4)(D) of the NDAA applies. Section 1(d) of E.O. 13622 also provided an exemption from sanctions under section 1(a) for transactions for the sale of food, medicine, or medical devices to Iran or when the underlying transaction has been authorized by the Secretary of the Treasury. Executive Order 13628 of October 9, 2012 (77 FR 62139, October 12, 2012), amended E.O. 13622 by adding the sale of agricultural

commodities to Iran to the list of exempt transactions in section 1(d) and by making other conforming changes to E.O. 13622.

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On August 10, 2012, the President signed into law the Iran Threat Reduction and Syria Human Rights Act of 2012 (Pub. L. 112-158) (22 U.S.C. 8701-8795) (“TRA”), which, *inter alia*, amends section 1245(d) of the NDAA. Section 503(a) of the TRA adds sales of agricultural commodities to Iran to the list of excepted transactions under section 1245(d)(2) of the NDAA, effective as if originally included in the NDAA. Section 503(b) of the TRA revises the timing of the reports on the availability and price of petroleum and petroleum products produced in countries other than Iran that, pursuant to section 1245(d)(4)(A) of the NDAA, the Administrator of the Energy Information Administration is required to submit to Congress. Beginning September 1, 2012, this report is to be submitted to Congress not later than October 25, 2012, and the last Thursday of every other month thereafter.

Section 504 of the TRA revises the types of foreign financial institutions and transactions that can be sanctioned under section 1245(d)(1) of the NDAA. Specifically, section 504(a)(1)(A) of the TRA amends the limitation on the imposition of sanctions in section 1245(d)(3) of the NDAA so that it only applies to foreign central banks and not to other government-owned or -controlled foreign financial institutions. As a result, foreign financial institutions owned or controlled by the government of a foreign country, other than central banks, are subject to sanctions under section 1245(d)(1) of the NDAA (with certain exceptions, including the sale of agricultural commodities, food, medicine and medical devices) with respect to any significant financial transaction conducted or facilitated on or after February 6, 2013, including transactions that are not for the sale or purchase of petroleum or petroleum products to or from Iran.

Section 504(a)(1)(B) of the TRA amends section 1245(d)(4)(D) of the NDAA to limit the exception from sanctions imposed pursuant to section 1245(d)(1) previously available for countries determined to have significantly reduced their crude oil purchases from Iran to certain transactions conducted or facilitated by foreign financial institutions located in significantly reducing jurisdictions. This amendment applies with respect to financial transactions conducted or facilitated on or after February 6, 2013. As amended, the exception from sanctions set forth in NDAA section 1245(d)(4)(D) applies to a financial transaction conducted or facilitated by a foreign financial institution if (1) the financial transaction is only for bilateral trade in goods or services between the country with primary jurisdiction over the foreign financial institution and Iran; and (2) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution. Furthermore, in order for this exception to apply to the financial transaction, there must be in effect a determination from the President either that the country with primary jurisdiction over the foreign financial institution has significantly reduced its crude oil purchases from Iran; or, in the case of a country that has previously received an exception under section 1245(d)(4)(D) of the NDAA, that, after receiving the exception, it has reduced its crude oil purchases from Iran to zero.

In addition, section 504 of the TRA amends section 1245(h) of the NDAA by adding a definition of the terms “reduce significantly,” “significant reduction,” and “significantly reduced.” The definition provides that these terms, used with respect to purchases from Iran of petroleum and petroleum products, include a reduction in such purchases in terms of price or volume toward a complete cessation of such purchases.

Today, OFAC is making a number of changes to the IFSR to implement the amendments to section 1245(d) of the NDAA made by sections 503 and 504 of the TRA, as well as to implement section 1 and related provisions of E.O. 13622. ...

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Effective March 14, 2013, the State Department imposed additional sanctions pursuant to ISA and TRA. 78 Fed. Reg. 21,183 (Apr. 9, 2013). Specifically, Dimitris Cambis and Impire Shipping were sanctioned pursuant to section 5(a)(8) of ISA, as amended (pertaining to the Iranian petroleum sector). And Kish Protection and Indemnity ("P&I") and Bimeh Markazi-Central Insurance of Iran ("CII") were sanctioned pursuant to section 212 of the TRA, which pertains to those providing insurance or underwriting services to certain Iranian oil or tanker companies. The specific sanctions imposed on each of these persons are listed in the Federal Register notice. A March 14, 2013 State Department press statement, available at www.state.gov/r/pa/prs/ps/2013/03/206268.htm, provides information about these persons' activities leading to the imposition of sanctions:

According to information available to the U.S. government, Dr. Cambis, president of Impire Shipping, helped the National Iranian Tanker Company (NITC) obtain eight tankers in late 2012. While these vessels were purchased and are controlled by Dr. Cambis and Impire Shipping, they are operated on behalf of NITC. U.S. law prohibits knowingly owning or controlling a vessel that operates in a manner that conceals the Iranian origin of crude oil by obscuring or concealing the ownership, operation, or control of the vessel by NITC.

Kish P&I provides insurance for NITC, the main carrier of Iranian petroleum. Kish P&I is reinsured by CII, thus CII is providing reinsurance services for NITC. U.S. law provides for sanctions on persons knowingly providing insurance or reinsurance for NITC.

Effective May 31, 2013, the State Department imposed sanctions on Ferland Company Limited pursuant to section 5(a)(8) of the ISA, as amended, and also sanctioned Jam Petrochemical Company and Niksima Food and Beverage JLT under E.O. 13622. 78 Fed. Reg. 35,351 (June 12, 2013).

The Iran Freedom and Counter-Proliferation Act of 2012, discussed in section 16A.1.c.(5) *infra*, also requires the President to impose sanctions set forth in ISA on persons determined to have engaged in certain activities on or after July 1, 2013, including activities in connection with the energy, shipping, or shipbuilding sectors of Iran.

(4) *E.O. 13628*

As discussed in *Digest 2012* at 514-15, President Obama issued Executive Order 13628, "Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Threat

Reduction and Syria Human Rights Act of 2012 and Additional Sanctions With Respect to Iran” in 2012.

On February 6, 2013, OFAC designated one individual and four entities Pursuant to E.O. 13628: Ezzatollah ZARGHAMI; Iranian Communications Regulatory Authority; Iranian Cyber Police; Islamic Republic of Iran Broadcasting; and Iran Electronics Industries. 78 Fed. Reg. 11,275 (Feb. 15, 2013).

On May 30, 2013, OFAC designated the Committee to Determine Instances of Criminal Content (“CDICC”) and Ofogh Saber Engineering Development Company pursuant to E.O. 13628 due to their involvement in suppressing freedom of expression in Iran. 78 Fed. Reg. 34,706 (June 10, 2013). These sanctions were announced in conjunction with the issuance of a General License aimed at increasing access by Iranians to personal communications technology and services to enhance their freedom of expression. See section A.1.c.(6), *infra*. For further information about CDICC and Ofogh Saber, see the May 30, 2013 State Department press statement, available at www.state.gov/r/pa/prs/ps/2013/05/210102.htm.

(5) *Iran Freedom and Counter-Proliferation Act*

The National Defense Authorization Act for Fiscal Year 2013 (signed January 2, 2013) includes a subtitle, the “Iran Freedom and Counter-Proliferation Act of 2012” (“IFCA”), that sets out a number of new sanctions related to Iran. A State Department fact sheet summarizing the IFCA sanctions is available at www.state.gov/documents/organization/208111.pdf. On June 3, 2013, the President delegated many of the authorities in the IFCA to the Secretary of State. Daily Comp. Pres. Docs. DCPD No. 00385 (June 3, 2013).

Section 1244(c) of IFCA requires the imposition of sanctions on persons that engage in various transactions involving Iran, including significant transactions, support, or the provision of goods or services with persons in the energy, shipping, or shipbuilding sector of Iran, port operators in Iran, and most Iranian persons on the SDN List. Section 1244(d) of IFCA also requires the imposition of sanctions on persons that sell, supply, or transfer to or from Iran significant goods or services used in connection with the energy, shipping, or shipbuilding sector of Iran and on foreign financial institutions that conduct or facilitate such transactions. Section 1245 requires the imposition of sanctions on persons that sell, supply, or transfer, directly or indirectly, to or from Iran, precious metals and certain other industrial metals. Additional sanctionable activity under IFCA includes sanctions in section 1246 on persons that provide insurance, reinsurance, or underwriting services for activity sanctionable under the Iran sanctions regime or for any Iranian on the SDN List. Foreign financial institutions are also subject to sanctions under section 1247 of IFCA if they conduct or facilitate a significant financial transaction on behalf of most Iranians on the SDN List. Finally, IFCA also requires the President to designate the Islamic Republic of Iran

Broadcasting (IRIB), and Ezzatollah Zargami, its President, for the imposition of sanctions, and to place both the IRIB and Zargami on the SDN List.

On June 5, 2013, President Obama issued Executive Order 13645, “Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Freedom and Counter-Proliferation Act of 2012 and Additional Sanctions With Respect To Iran.” 78 Fed. Reg. 33,945 (June 5, 2013). Section 1 of E.O. 13645 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to sanction foreign financial institutions upon determining that the institution has:

- (i) knowingly conducted or facilitated any significant transaction related to the purchase or sale of Iranian rials or a derivative, swap, future, forward, or other similar contract whose value is based on the exchange rate of the Iranian rial; or
- (ii) maintained significant funds or accounts outside the territory of Iran denominated in the Iranian rial.

The authorized sanctions include prohibitions or limitations on correspondent accounts or payable-through accounts in the United States and blocking of property.

Section 2 authorizes blocking the property of a person determined to have “materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any Iranian person included on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control.

Section 3 authorizes sanctions on foreign financial institutions that knowingly conduct or facilitate financial transactions either (i) on behalf of Iranian persons on the SDN list or (ii) for the sale of goods or services connected with the automotive industry in Iran. Such financial institutions are subject to the prohibition or limitations on maintaining correspondent or payable-through accounts in the United States. Sections 5, 6, and 7 provide for further sanctions targeting the Iranian automobile sector.

Section 5 authorizes the Secretary of State to impose sanctions on a person after determining that any of four criteria are met: (a) engaging in a transaction of automotive goods or services; (b) successor to persons identified in (a); (c) owned or controlled by a person identified in (a) and had knowledge about the transaction; (d) owned or controlled by a person identified in (a) and participated in the transaction.

On December 12, 2013, the U.S. Departments of the Treasury and State announced the designation of a number of companies and individuals for evading international sanctions against Iran and for providing support for Iran’s nuclear program. A State Department media note, available at www.state.gov/r/pa/prs/ps/2013/218637.htm, provides background on the designated persons. Singapore-based Mid Oil Asia was designated pursuant to E.O. 13645 for providing material support to the National Iranian Tanker Company (“NITC”). Singapore-based Singa Tankers was likewise designated pursuant to E.O. 13645 for providing material support to NITC. Siqiriya Maritime Corporation was also designated pursuant to E.O. 13645 for providing material support to NITC and three vessels were identified as

property in which Siqiriya has an interest: Anthem, Jaffna, and Olysa. Also designated pursuant to E.O. 13645 for its support to NITC was Ferland Company Limited, an entity previously sanctioned pursuant to ISA and E.O. 13608. The General Manager of Ferland, Vitaly Sokolenko, was also designated pursuant to E.O. 13645.

(6) *Section 1245 of the 2012 National Defense Authorization Act*

Section 1245(d) of the NDAA requires the U.S. Government to report to Congress on the availability of petroleum and petroleum products in countries other than Iran and determine whether price and supply permit purchasers of petroleum and petroleum products from Iran to “reduce significantly in volume their purchases from Iran.” Sanctions shall not be imposed on foreign financial institutions in countries that are determined to have made such significant reductions. See *Digest 2012* at 506-7. On June 5, 2013 and November 29, 2013 President Obama again made the determination, required every six months, that there was a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran. 78 Fed. Reg. 35,537 (June 12, 2013); 78 Fed. Reg. 76,717 (Dec. 18, 2013); 79 Fed. Reg. 2746 (Jan. 15, 2013).

On March 13, 2013 and September 6, 2013, Secretary Kerry announced that Japan had qualified again, after each 180 day period, for an exception to sanctions based on additional significant reductions in the volume of its crude oil purchases from Iran. See March press statement, available at www.state.gov/secretary/remarks/2013/03/206125.htm; September press statement, available at www.state.gov/secretary/remarks/2013/09/213890.htm. In addition, EU countries (Belgium, the Czech Republic, France, Germany, Greece, Italy, Netherlands, Poland, Spain, and the United Kingdom) which had ceased purchasing Iranian oil in July 1, 2012, were granted a renewed exception to sanctions upon expiration of each 180 day period in 2013.

Another group of countries and economies was separately determined to qualify for the exception to sanctions every 180 days in 2013: China, India, Malaysia, Republic of Korea, Singapore, South Africa, Sri Lanka, Turkey, and Taiwan. See, e.g., June 5, 2013 press statement, available at www.state.gov/secretary/remarks/2013/06/210321.htm; 79 Fed. Reg. 2746 (Jan. 15, 2014) (providing notice that the Secretary of State determined, on November 29, 2013, pursuant to Section 1245(d)(4)(D), that as of November 29, 2013, India, Malaysia, the People’s Republic of China, the Republic of Korea, Singapore, South Africa, Sri Lanka, Taiwan, and Turkey each qualified for the 180-day exception).

In all, twenty countries and economies continued to significantly reduce the volume of their crude oil purchases from Iran in 2013. After the P5+1 and Iran agreed to the Joint Plan of Action in November, the United States paused for six months the efforts to further reduce Iran’s crude oil sales. The JPOA does not offer relief from sanctions with respect to any increases in Iranian crude oil purchases by existing

customers or any purchases by new customers. See November 29, 2013 remarks by Secretary Kerry, “Regarding Significant Reductions of Iranian Crude Oil Purchases,” available at www.state.gov/secretary/remarks/2013/11/218131.htm.

(7) *Modification of sanctions*

On April 12, 2013, the United States lifted sanctions imposed under the Iran Sanctions Act in May 2011 on Tanker Pacific Management (“TPM”), Société Anonyme Monégasque D’Administration Maritime Et Aérienne (“SAMAMA”), and Allvale Maritime Inc. (“AMI”). 78 Fed. 23,624 (Apr. 19, 2013). A State Department press statement on that date, available at www.state.gov/r/pa/prs/ps/2013/04/207440.htm, describes the grounds for delisting the companies and the activities that originally triggered sanctions:

All three companies have been engaged in extensive consultations with the State Department and have provided reliable assurances that they will not knowingly engage in such sanctionable activity in the future.

The three companies were sanctioned in May 2011 for their respective roles in a September 2010 transaction that provided a tanker valued at \$8.65 million to the Islamic Republic of Iran Shipping Lines (IRISL), an entity that has been designated by the United States and the European Union for its role in supporting Iran’s proliferation activities. Since sanctions were applied, these companies have taken significant steps to ensure that their operations are in compliance with U.S. sanctions law and policy, and have provided reliable assurances that they will not knowingly engage in such sanctionable activity in the future. As a result, the Secretary of State has decided to lift sanctions at this time.

On May 30, 2013, the Department of the Treasury, in consultation with the Department of State, issued a General License authorizing the exportation to Iran of certain services, software, and hardware incident to personal communications. As explained in a State Department media note, available at www.state.gov/r/pa/prs/ps/2013/05/210102.htm:

This license allows U.S. persons to provide the Iranian people with safer, more sophisticated personal communications equipment to communicate with each other and with the outside world. This General License aims to empower the Iranian people as their government intensifies its efforts to stifle their access to information. The General License would not authorize the export of any equipment to the Iranian government or to any individual or entity on the Specially Designated Nationals (SDN) list.

2. Syria

a. Imposition and removal of sanctions pursuant to Executive Orders

On May 16, 2013, OFAC designated Syrian Arab Airlines pursuant to both E.O. 13224 of 2001 (relating to terrorism) and E.O. 13582 of 2011 (relating to Syria), and identified 38 aircraft associated with Syrian Arab Airlines pursuant to E.O. 13224 and E.O. 13582. 78 Fed. Reg. 32,304 (May 29, 2013). Also on May 16, 2013, OFAC designated three individuals as senior officials of the government of Syria under E.O. 13573: Najm Hamad Al-Ahmad, Sa'ad Abdel-Salam Al-Nayef, and Adnan Abdo Al-Sukhni. 78 Fed. Reg. 31,631 (May 24, 2013). And on May 16, 2013, OFAC also designated one entity (Al-Dunya Television) pursuant to E.O. 13582 (78 Fed. Reg. 31,630 (May 24, 2013)) and one individual (Fahd Jassem AL-A-FREIJ) pursuant to E.O. 13582 (78 Fed. Reg. 31,631 (May 24, 2013)).

In a July 19, 2013 Federal Register notice, OFAC announced the designations of one individual (Ayman JABER) and one entity (Shabiha) pursuant to E.O. 13572 (relating to human rights abuses in Syria) and two individuals (Mohammad JABER and Ayman JABER) and two entities (Jaysh Al-Sha'bi and Shabiha) pursuant to E.O. 13582. 78 Fed. Reg. 43,277 (July 19, 2013).

OFAC removed Nabil Rafik AL-KUZBARI from the list of those designated under E.O. 13572, effective April 18, 2013. 78 Fed. Reg. 24,468 (Apr. 25, 2013). Effective May 16, 2013, OFAC removed Dawood RAJIHA from the list of those designated under E.O. 13573. 78 Fed. Reg. 31,632 (May 24, 2013).

b. Easing sanctions affecting the opposition in Syria

On June 12, 2013, the U.S. Government took actions to ease sanctions in the areas of Syria under opposition control. State Department media note, available at www.state.gov/r/pa/prs/ps/2013/06/210577.htm. First, Secretary Kerry signed a limited waiver of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 ("SAA"), consistent with Section 5(b) of the Act. The waiver authorizes the export and re-export, subject to case-by-case review, of certain U.S.-origin items to liberated areas of Syria for the benefit of the Syrian people. The waiver will authorize the Department of Commerce to process license applications for export and re-exports of commodities, software, and technology, including but not limited to those related to water supply and sanitation; agricultural production and food processing; power generation; oil and gas production; construction and engineering; transportation; and educational infrastructure. These items are intended to help address the critical needs of the Syrian people and facilitate reconstruction in liberated areas. Of note, the export of food and medicine does not currently require a license and medical devices are covered under an existing waiver.

Second, OFAC issued a Statement of Licensing Policy (“SLP”) inviting U.S. persons to apply for specific licenses to engage in oil-related transactions that benefit the National Coalition of Syrian Revolutionary and Opposition Forces, or its supporters, and transactions involving Syria’s agricultural and telecommunications sectors. U.S. persons wishing to engage in other economic activities in Syria, particularly in liberated areas, that are within the scope of the SLP, are also invited to apply to OFAC for a specific license.

Third, OFAC also amended Syria General License 11 to authorize the exportation of services and funds transfers in support of not-for-profit activities to preserve Syria’s cultural heritage sites. These actions are described in a briefing by senior government officials, available at www.state.gov/r/pa/prs/ps/2013/06/210588.htm, excerpted below.

* * * *

...The Department of State, the Department of Treasury, and the Department of Commerce are taking three actions today to ease the economic sanctions in those opposition areas of Syria. The first action we’re taking today is that Secretary of State John Kerry signed a limited waiver of the Syria Accountability Act which will authorize the export or re-export of certain U.S.-origin items to liberated areas of Syria for the benefit of the Syrian people.

Currently from the United States you can export certain food and medicine to Syria. The action we’re taking today will allow U.S. companies and persons to export, subject to case by case review by the Commerce Department, a wide range of reconstruction-related equipment to opposition areas. Some examples of the kinds of equipment that could be authorized for export include a variety of agricultural equipment, equipment related for power generation, as well as water supply and sanitation type equipment to those liberated areas. This is not a general license we’re taking today, but rather U.S. companies interested in engaging in these kinds of exports will be able to apply to the Department of Commerce for license to export those kinds of goods. We see this action as a way of providing some concrete material benefit to people in those liberated areas because of the needs for reconstruction in those areas.

Related to that action today, Treasury Department’s Office of Foreign Assets Control, OFAC, is issuing a Statement of Licensing Policy which will allow—encourages U.S. people to apply to OFAC for specific licenses that’ll enable U.S. persons to engage in certain activities in Syria. In particular, the Statement of Licensing Policy invites people to apply for licenses to engage in oil-related transactions for the benefit of Syrian opposition, including facilitating the export of oil from Syria for the benefit of the Syrian opposition, also to provide support to Syria’s agricultural and telecommunications sectors. People wishing to engage in other kinds of transactions, particularly in liberated areas, within the scope of the Statement of Licensing Policy, are also invited to apply for licenses.

And finally, we’re amending a general license, General License 11, that’ll authorize additional NGOs to engage in activities to preserve cultural heritage sites and the cultural patrimony of Syria.

I think, broadly speaking, we see the actions we’re taking today as providing an important benefit for the people of Syria and for the Syrian Opposition Coalition and the

opposition within Syria. As I said, the actions we're taking today do still require companies interested in engaging in these transactions to come in and get specific licenses. That ensures that relevant U.S. governments can review specific transactions to make sure that specifically sanctioned entities aren't able to participate in those transactions and that those transactions are actually for the benefit of the Syrian people.

* * * *

c. *Sanctions under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991*

See Chapter 19.F.1. for a discussion of the U.S. government determination regarding sanctions under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 as a consequence of the Government of Syria's use of chemical weapons in 2013.

3. Nonproliferation

a. *Democratic People's Republic of Korea*

(1) *UN sanctions*

The UN Security Council adopted two new resolutions on North Korea in 2013. On January 22, 2013, the Council unanimously adopted Resolution 2087, condemning North Korea's December 12, 2012 rocket launch, which used ballistic missile technology and violated Resolutions 1718 and 1874. Ambassador Rice's remarks following adoption of Resolution 2087 are excerpted below and available at <http://usun.state.gov/briefing/statements/203135.htm>.

* * * *

The resolution adopted today condemns the launch and imposes important new sanctions on North Korea, on its companies and government agencies, including North Korea's space agency, which was responsible for the launch, a bank, and North Korean individuals. It also updates current lists of nuclear and ballistic missile technology banned for transfer to and from the DPRK, helping ensure that North Korea is unable to procure or proliferate the most sensitive technology. It includes several new provisions targeting North Korea's illicit procurement efforts, in particular its smuggling of sensitive items that could contribute to prohibited programs, and it has new financial provisions that help to increase vigilance and monitoring over North Korean financial activities.

This resolution demonstrates to North Korea that there are unanimous and significant consequences for its flagrant violation of its obligations under previous resolutions. More

importantly, the provisions of this resolution—both new sanctions and the tightening and expanding of existing measures—concretely help to impede the growth of North Korea’s WMD program and reduce the threat of proliferation by targeting entities and individuals directly involved in these programs.

Today’s resolution also makes clear that if North Korea chooses again to defy the international community, such as by conducting another launch or a nuclear test, then the Council will take significant action.

We believe that today’s resolution is a firm, united, and appropriate response to North Korea’s reckless act and that strict enforcement of sanctions is essential to address the threat posed by North Korea’s nuclear and missile programs. We remain committed, nonetheless, to resolving our concerns about these programs through authentic and credible negotiations to the greatest extent possible.

As the President noted in his speech last November in Rangoon, the United States is willing to extend its hand should the leadership in Pyongyang opt for the path of peace and progress by choosing to let go of its nuclear weapons, but today’s resolution makes clear that there will be an increasingly steep price to pay if North Korea again chooses confrontation with this Council and the international community.

* * * *

The US mission to the UN released a fact sheet on January 23, 2013 on Resolution 2087, available at <http://usun.state.gov/briefing/statements/203171.htm>, and excerpted below.

* * * *

In response to North Korea’s December 12 launch, the UN Security Council adopted Resolution 2087 to condemn the launch and impose new sanctions, including asset freezes and travel bans on critical North Korean companies and officials. Additionally, Resolution 2087 strengthens and expands the scope of existing sanctions, making them more effective and far-reaching.

By limiting North Korea’s ability to procure funds, send agents abroad, transfer dual-use items or smuggle other goods, these provisions will make it harder for North Korea to proceed with its nuclear and missile programs. Combined with the measures in Resolutions 1718 and 1874, the Security Council has further strengthened the robust and stringent sanctions regime imposed on Pyongyang.

Resolution 2087:

- Condemns North Korea’s launch as a violation of previous Security Council resolutions and reiterates the Security Council’s previous demands that North Korea not conduct any further launch and that it comply fully with its obligations with respect to its nuclear and ballistic missile programs.
- Imposes new sanctions on several North Korean companies and government agencies, including North Korea’s space agency responsible for the launch, as well as on the Bank of East Land and several individuals. These six entities and four individuals will have their assets frozen and be prohibited from engaging in financial transactions. The individuals—including banking agents and space

agency officials—will be subject to a travel ban, limiting their ability to procure technology and know-how or strike commercial deals abroad.

- Updates current lists of nuclear and ballistic missile technology banned for transfer to and from the DPRK, helping ensure that North Korea is unable to procure or proliferate the most sensitive technology.
- Addresses North Korea's illicit financial activities, including through enhanced vigilance and monitoring of a broad range of financial activities and actors, as well as by spotlighting the problem of North Korea's smuggling of bulk cash.
- Directs the Security Council's North Korea Sanctions Committee to issue public guidance for cargo interdiction for situations when suspicious vessels refuse to be inspected.
- Provides additional guidance to states on how to seize and dispose of illicit items discovered during cargo inspections.
- Clarifies existing sanctions to ensure states prohibit the transfer of any item if a UN-designated North Korean individual or entity is the originator, intended recipient or facilitator.
- Underscores the importance of states' taking action with respect to preventing the transfer of dual-use goods that could contribute to North Korea's violations.
- Calls on states to limit the travel of certain North Korea agents, many of whom are engaged in illegal activities abroad.
- Expands sanctions designation criteria to allow the Security Council's North Korea Sanctions Committee to impose sanctions on sanctions violators.
- Includes new language to improve sanctions implementation, including a force majeure clause to facilitate lawful interdiction of cargo by states; urges states to report on implementation; encourages international agencies to make sure their activities do not violate sanctions.

This resolution reaffirms the Council's desire for a peaceful, diplomatic and political solution to the situation in North Korea and reaffirms its support to the Six Party Talks. It also expresses the Council's readiness to strengthen or modify the sanctions imposed on North Korea and, in this regard, expresses the Council's determination to take "significant action" in the event of a further nuclear test or launch.

* * * *

On March 7, 2013, the UN Security Council unanimously adopted a new resolution to impose additional sanctions on North Korea in response to that country's February 12 announcement of a nuclear test. A March 7, 2013 fact sheet on Resolution 2094 on North Korea, released by the U.S. Mission to the UN, is excerpted below and available at <http://usun.state.gov/briefing/statements/205698.htm>.

* * * *

The new sanctions contained in this resolution will significantly impede North Korea's ability to develop further its illicit nuclear and ballistic missile programs, as well as its proliferation

activities. These strong sanctions—in addition to the commitment to take additional measures in the event of a further launch or nuclear test—demonstrate to North Korea that there are real costs for its continued violations of its international obligations.

2094 Highlights

- Condemns in the strongest terms North Korea's ongoing nuclear activities, including its uranium enrichment program, and reaffirms the obligation on North Korea to abandon all existing nuclear, other weapons of mass destruction and ballistic missile programs.

- Imposes new financial sanctions to block financial transactions in support of illicit DPRK activity, crack down on bulk cash transfers, and further restrict ties to North Korea's financial sector, if there is a link to illicit DPRK activity;

- Strengthens states' authority to inspect suspicious cargo and deny port and over flight access to DPRK-affiliated shipments where warranted;

- Enables stronger enforcement of existing sanctions by UN Member States.

- Sanctions new individuals and entities;

- Adds new items to the Security Council sanctions list.

Financial Sanctions

- Requires states to freeze or block any financial transaction or financial service that could contribute to North Korea's illicit programs or the violation of Security Council resolutions.

- Calls on states to prohibit the opening of North Korean bank branches on their territories if there is a link to North Korea's illicit programs or the violation of Security Council resolutions.

- Calls on states to prohibit their financial institutions from opening offices in North Korea if there is a link to North Korea's illicit programs or the violation of Security Council resolutions.

- Determines that financial sanctions apply to bulk cash transfers, including through cash couriers (a common way that North Korea has moved illicit funds).

- Requires states not to provide public financial support for trade with North Korea (e.g., export credits or insurance) if there is a link to North Korea's illicit programs or the violation of Security Council resolutions.

- Urges states to implement guidance from the Financial Action Task Force (a multilateral organization) involving proliferation finance.

Interdiction

- Requires states to inspect cargo on their territories, if the state has reasonable grounds to believe the cargo contains prohibited items (e.g., conventional arms, nuclear- or ballistic missile-related items, etc.).

- Requires states to deny port access to any North Korean vessel that refuses to be inspected or any other vessel that has refused an inspection authorized by that vessel's flag state.

- Calls on states to deny permission to any aircraft to take off, land in or overfly their territory if the aircraft is suspected of transporting prohibited items.

- Prompts states to provide information to the Security Council's North Korea Sanctions Committee regarding activity by North Korean aircraft or vessels to evade sanctions (e.g., renaming, re-registering).

Other Measures

- Determines that existing sanctions prohibit brokering sales of prohibited items (e.g., conventional arms, nuclear- and ballistic missile-related items).

- Expands the scope of the existing asset freeze to cover the subsidiaries and front companies of entities that have already been designated for targeted sanctions.
 - Requires states to prohibit the travel of any individual determined to be working for a designated individual or entity or who is violating existing sanctions. If the individual is North Korean, then States are required to expel him or her back to North Korea.
 - Calls on states to exercise enhanced vigilance over North Korean diplomats to prevent them from contributing to North Korea's nuclear or ballistic missile-programs, engaging in other activities prohibited by Security Council resolutions or evading sanctions.
 - Directs the Sanctions Committee to update annually the lists of nuclear and ballistic missile technology that is prohibited for transfer to or from North Korea.
 - Calls on and authorizes states to prevent the transfer to or from North Korea of any item that could contribute to North Korea's nuclear or ballistic missile programs or any other violation of Security Council resolutions.
 - Specifies that prohibited luxury goods are banned for transfer to North Korea, including certain kinds of jewelry and precious stones, yachts, luxury automobiles and racing cars.
- Sanctions Implementation
- Calls on states to report to the Security Council within ninety days on steps taken to implement these sanctions and to supply information regarding sanctions violations.
 - Directs the Sanctions Committee to respond to sanctions violations by imposing targeted sanctions on individuals and entities responsible for such violations.
 - Renews the mandate of the UN's Panel of Experts (a sanctions monitoring team) and expands the size of the group from seven to eight members.
 - Applies force majeure to enable states to enforce the sanctions without fear of being sued.

* * * *

On March 7, 2013, Ambassador Rice delivered remarks to the Security Council on the adoption of Resolution 2094. Her remarks are excerpted below and available at <http://usun.state.gov/briefing/statements/205792.htm>.

* * * *

... Resolution 2094 imposes tough new financial sanctions. When North Korea tries to move money to pay for its nuclear and ballistic missile programs, countries must now block those transfers, even if the money is being carried in suitcases full of bulk cash. Likewise North Korean banks will find it much harder to launder money for the DPRK nuclear program. Today's resolution also imposes new travel restrictions. If, for example, a North Korean agent is caught making arms deals or selling nuclear technology, countries will be required to expel that agent. Countries must also now prevent the travel of people working for designated companies involved in the nuclear and missile programs.

States will now have new authorities to inspect cargo and stop North Korean arms smuggling and proliferation. If a country has cargo on its territory that might be carrying [prohibited] items, like conventional arms or nuclear or ballistic materials, this resolution requires that the cargo be inspected. It will also make it harder for North Korean vessels to

offload such prohibited cargo if a ship refuses inspection on the high seas, thus forcing it to return to its port of origin. And airplanes carrying smuggled items can find themselves grounded.

This resolution will also counter North Korean efforts to abuse diplomatic privileges to advance its nuclear and ballistic missile activities. It will now be much harder for such diplomats to procure technology or divert funds to the nuclear program without being detected and expelled. Resolution 2094 further bans the transfer to and from North Korea of specific ballistic missile, nuclear, and chemical weapons-related technology. It lists new prohibited items and calls on states to block any item at all that could contribute to these activities. It names additional North Koreans and North Korean companies whose assets will be frozen, and those individuals will also be subject to a travel ban.

This resolution lists a number of luxury goods that cannot be sold to North Korea. As a result, North Korea's ruling elite—who have been living large while impoverishing their people—will pay a direct price for this nuclear test. A detailed fact sheet [outlining] all key measures in UN resolution 2094 can be found on the U.S. Mission's website:

<http://usun.state.gov>.

Taken together, these sanctions will bite and bite hard. They increase North Korea's isolation and raise the cost to North Korea's leaders of defying the international community. The entire world stands united in our commitment to the denuclearization of the Korean Peninsula and in our demand that North Korea comply with its international obligations. If it does not, then the Security Council committed today, in this resolution, to take further significant measures if there is another nuclear test or missile launch. We regret that North Korea has again chosen the path of provocation instead of the path of peace. Far from achieving its stated goal of becoming a strong and prosperous nation, North Korea has instead again opted to further impoverish its people and increase its isolation. We hope instead that North Korea will heed President Obama's call to choose the path of peace and come into compliance with its international obligations.

* * * *

On October 29, 2013, the United States submitted to the UN Security Council Committee established pursuant to resolution 1718 its national implementation report regarding resolution 2094. U.N. Doc. S/AC.49/2013/24. The U.S. national implementation report is excerpted below and available at www.un.org/qa/search/view_doc.asp?symbol=S/AC.49/2013/24.

* * * *

Following the adoption of resolutions 1874 (2009) and 2094 (2013), the United States, in March 2013, designated, pursuant to Executive Order 13382, the three individuals listed in annex I to resolution 2094 (2013): Mun Cho'ng-Ch'o'l, a Tanchon Commercial Bank representative who served in Beijing; and Yo'n Cho'ng-Nam and Ko Ch'o'l-Chae, both based in Dalian, China, and representatives of the Korea Mining Development Trading Corporation. The Second Academy of Natural Sciences and Korea Complex Equipment Import Corporation, listed in annex II to the resolution, were previously designated pursuant to Executive Order 13382, in August 2010 and October 2005, respectively.

In order to implement the requirement to freeze the assets of any individuals or entities acting on behalf or at the direction of any designated entity or individual imposed by paragraph 8, the United States has taken action against a number of additional entities and individuals. For example, in March 2013, pursuant to Executive Order 13382, the United States designated four senior members of the North Korean Government: Paek Se-Bong, Chairman of the Second Economic Committee; Pak To-Chun, Secretary of the United States and European Union designated Munitions Industry Department; Chu Kyu-Chang, Director of the Munitions Industry Department; and O Kuk-Ryol, Vice-Chairman of the North Korean National Defence Commission. The Foreign Trade Bank acts as North Korea's primary foreign exchange bank and has provided key financial support to the Korea Kwangson Banking Corporation. The Korea Kwangson Banking Corporation was designated under Executive Order 13382 in August 2009 for providing financial services in support of the entities Tanchon Commercial Bank and the Korea Hyoksin Trading Corporation, both of which were designated by the Committee established pursuant to resolution 1718 (2006). The Foreign Trade Bank has also facilitated millions of dollars in transactions that have benefited the Korea Mining Development Trading Corporation—North Korea's premier arms dealer—and its financial arm, Tanchon Commercial Bank. North Korea's Second Economic Committee oversees the production of North Korea's ballistic missiles and directs the activities of the Korea Mining Development Trading Corporation. In April 2009, Tanchon Commercial Bank, the Korea Mining Development Trading Corporation, and the Korea Hyoksin Trading Corporation were designated by the Security Council Committee established pursuant to resolution 1718 (2006).

Additionally, in June 2013, the United States designated Daedong Credit Bank (DCB), together with DCB Finance Limited—a DCB front company—and DCB representative Kim Chol Sam pursuant to Executive Order 13382. The financial operations carried out by DCB, DCB Finance Limited and Kim Chol Sam are responsible for managing millions of dollars of transactions in support of the North Korean regime's destabilizing activities.

Also, designated under Executive Order 13882 was Son Mun San, the External Affairs Bureau Chief of North Korea's General Bureau of Atomic Energy, for his work directing North Korea's nuclear-related research efforts. The General Bureau of Atomic Energy, which was previously designated by the United States and the United Nations, is responsible for North Korea's nuclear programme.

* * * *

The United States Department of the Treasury, through its Financial Crimes Enforcement Network, issued an advisory to United States financial institutions in April 2013 regarding North Korean illicit financial activities. The advisory (FIN-2013-A004) provides guidance to United States financial institutions on implementing the financial provisions in resolution 1718 (2006), resolution 1874 (2009), resolution 2087 (2013) and resolution 2094 (2013). It sets forth United States concerns regarding the use of deceptive financial practices by North Korea and North Korean entities, as well as those acting for or on their behalf, to hide illicit conduct, including proliferation activities. It advises United States financial institutions to take commensurate risk mitigation measures.

The advisory incorporates the recent guidance issued by the Financial Action Task Force on the implementation of financial provisions in WMD-related Security Council resolutions and includes specific risk indicators to assist financial institutions in identifying high-risk customers and transactions associated with illicit activity of the Democratic People's Republic of Korea.

The advisory encourages financial institutions to apply corresponding enhanced due diligence with high-risk customers to ensure that financial institutions do not facilitate transactions related to prohibited activities. Possible due diligence measures include obtaining additional information regarding the customer and transaction, such as the nature, end-use or end-user of the item, as well as export control information, such as copies of export control or other licences issued by the national export control authorities, and end-user certification.

The advisory also notes that there is an increased likelihood that correspondent accounts held for North Korean financial institutions, as well as their foreign branches and subsidiaries, may be used to hide illicit conduct and related financial proceeds in an attempt to circumvent existing sanctions. A list of some North Korean banks is included in the advisory for ease of reference. Finally, the advisory also highlights the risk that North Korea may rely on cash transactions to evade the provisions of Security Council resolutions, and urges financial institutions to remain vigilant of large cash deposits, particularly when associated with other risk factors related to North Korea and prohibited activities.

* * * *

In July 2013, a North Korea-flagged ship named the Chong Chon Gang was detained and inspected by authorities in Panama based on suspicion it was transporting illicit cargo. On July 16, 2013, a spokesperson for the State Department responded to questions about the incident. Excerpts follow from the July 16, 2013 daily press briefing, available at www.state.gov/r/pa/prs/dpb/2013/07/212040.htm.

* * * *

[T]he United States strongly supports Panama's sovereign decision to inspect the D.P.R.K.-flagged vessel. The U.S. commends the actions that the Government of Panama has taken in this case. Panama, as you know, is a close partner of the United States. We stand ready to cooperate with Panama should they request our assistance. ...

* * * *

... this is a vessel, as we understand, that the Panamanians inspected because it might be smuggling narcotics, and they utilized their resident domestic authorities to make that inspection. And this ship—this is called the MV Chong Chon Gang—has a history of involvement in drug smuggling. Public reports from 2010 and also a UN panel of experts report from 2012 cite this history. So this vessel has a well-known history in this regard.

* * * *

...In terms of UN Security Council resolutions, if indeed there were a shipment of arms on board of this vessel, any shipment of arms or related materiel would violate UN Security Council Resolutions 1718, 1874, and 2094.

* * * *

Well, again, we've had broad cooperation with Panama. Just to remind people that they're one of 102 countries that are part of our Proliferation Security Initiative. So they've made a public commitment to stop transfers of weapons of mass destruction, related material, and their delivery systems to and from state and non-state actors of proliferation concern.

* * * *

(2) *U.S. sanctions*

Many of the sanctions imposed by the United States in 2013 pursuant to E.O. 13382 are directed at individuals and entities involved in North Korea's weapons of mass destruction ("WMD") and ballistic missile programs and serve to implement U.S. obligations under UN Security Council resolutions. See Section A.3.c., *infra*, for designations made in 2013 pursuant to E.O. 13382.

Within days of the adoption of Resolution 2087, the United States announced that it was implementing the resolution via new designations by the State Department and OFAC under E.O. 13382 of entities and individuals tied to North Korea's proliferation activities. A January 24, 2013 media note, available at www.state.gov/r/pa/prs/ps/2013/01/203236.htm, identifies the Korean Committee for Space Technology ("KCST"), KCST senior official Paek Chang-Ho, and General Manager of the Sohae Satellite Launching Station, Chang Myong-Chin, as the State designees. Information about OFAC's designations is available at www.treasury.gov/press-center/press-releases/Pages/default.aspx.

Designations made by the Department of State and OFAC on March 7 and 11, 2013 relate to North Korea's WMD and missile programs and implement UN Security Council Resolution 2094. See the March 11, 2013 State Department media note, available at www.state.gov/r/pa/prs/ps/2013/03/205953.htm. A March 8, 2013 State Department fact sheet, available at www.state.gov/t/isn/205879.htm, specifies that sanctions determinations made on March 7, 2013 by OFAC would implement the asset freeze provisions of resolution 2094 by designating Mun Cho'ng-Ch'o'l, a Tanchon Commercial Bank ("TCB") representative who served in Beijing, China; and Yo'n Cho'ng-Nam and Ko Ch'o'l-Chae, both based in Dalian, China, and representatives of Korea Mining Development Corporation ("KOMID"), pursuant to Executive Order (E.O.) 13382. The fact sheet further identifies the Second Academy of Natural Sciences and Korea Complex Equipment Import Corporation, also listed in Resolution 2094, as entities previously designated pursuant to E.O. 13382 in August 2010 and October 2005 respectively.

b. *Iran, North Korea, and Syria Nonproliferation Act*

On December 20, 2012, the Department of State made a determination to impose sanctions under the Iran, North Korea, and Syria Nonproliferation Act, Pub. L. No. 106-

178 (2000), as amended (“INKSNA”), on two entities in Belarus, four in China, two in Iran, two in Sudan, and one in each of Syria and Venezuela as well as individuals in China and Iran. The sanctions took effect February 5, 2013. 78 Fed. Reg. 9769 (Feb. 11, 2013). A February 11, 2013 media note, available at www.state.gov/r/pa/prs/ps/2013/02/204013.htm, explains:

INKSNA sanctions were imposed on these entities and individuals because there was credible information indicating they had transferred to, or acquired from, Iran, North Korea, or Syria, equipment and technology listed on multilateral export control lists (Australia Group, Chemical Weapons Convention, Missile Technology Control Regime, Nuclear Suppliers Group, Wassenaar Arrangement), or items that are not listed, but nevertheless, could materially contribute to a weapons of mass destruction (WMD) or cruise or ballistic missile program.

The Federal Register notice sets forth the sanctions, which were imposed for a period of two years:

1. No department or agency of the United States Government may procure, or enter into any contract for the procurement of any goods, technology, or services from these foreign persons, except to the extent that the Secretary of State otherwise may have determined;
2. No department or agency of the United States Government may provide any assistance to the foreign persons, and these persons shall not be eligible to participate in any assistance program of the United States Government, except to the extent that the Secretary of State otherwise may have determined;
3. No United States Government sales to the foreign persons of any item on the United States Munitions List are permitted, and all sales to these persons of any defense articles, defense services, or design and construction services under the Arms Export Control Act are terminated; and
4. No new individual licenses shall be granted for the transfer to these foreign persons of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations, and any existing such licenses are suspended.

c. *Executive Order 13382*

On January 24, 2013, OFAC designated one entity and two individuals pursuant to E.O. 13382 “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters”: Leader (Hong Kong) International Trading Ltd., Kwang-Il KIM, and Kyong-Su RA. 78 Fed. Reg. 8221 (Feb. 5, 2013). On the same date, January 24, 2013, the Department of State determined that the Korean Committee for Space Technology, as

well as two individuals, Paek Chang-Ho and Chang Myong-Chin, had engaged, or attempted to engage, in activities triggering the imposition of sanctions pursuant to E.O. 13382. 78 Fed. Reg. 13,139 (Feb. 26, 2013).

On March 7, 2013, OFAC designated three individuals pursuant to E.O. 13382: Ch'o'l-Chae KO, Cho'ng-Nam YO'N, and Cho'ng-Ch'o'l MUN, all North Korean nationals. 78 Fed. Reg. 17,996 (Mar. 25, 2013). On March 11, 2013, OFAC designated one entity and one individual: Foreign Trade Bank of the Democratic People's Republic of Korea and Se-Bong PAEK. 78 Fed. Reg. 17,997 (Mar. 25, 2013).

Also on March 11, 2013, the State Department designated three individuals. 78 Fed. Reg. 17,992 (Mar. 25, 2013). These individuals' roles in North Korea's WMD program are described in a March 11, 2013 media note, available at www.state.gov/r/pa/prs/ps/2013/03/205953.htm:

Pak To-Chun is the head of U.S.- and European Union-designated Munitions Industry Department, which manages North Korea's weapons production and arms exports; he succeeded EU-designated Jon Pyong-Ho. Pak is a full member of the Korean Worker Party's (KWP) Political Bureau, its highest decision-making body, as well the National Defense Commission, which, among other things, oversees several elements of North Korea's security apparatus.

Chu Kyu-Chang is a KWP Political Bureau (alternate) member and directs the Munitions Industry Department. He formerly headed the U.S.-designated Second Academy of Natural Sciences (SANS) and the Second Economic Committee (SEC). SANS is a national-level organization responsible for research and development of North Korea's advanced weapons systems, including missiles and probably nuclear weapons. SEC is responsible for overseeing the production of North Korea's ballistic missiles and directs activities of the United Nations-, European Union-, and U.S.-designated Korea Mining Development Trading Corporation (KOMID).

O Kuk-Ryol is a Vice Chairman of the North Korean National Defense Commission. He previously headed the KWP Operations Department, where he ordered the establishment of a nuclear research and development organization directly under his control.

On April 11, 2013, OFAC designated six entities and one individual pursuant to Executive Order 13382: Babak Morteza ZANJANI; First Islamic Investment Bank Ltd.; International Safe Oil; Kont Investment Bank; Kont Kosmetik; Naftiran Intertrade Co. (NICO) Limited; and Sorinet Commercial Trust (SCT) Bankers. 78 Fed. Reg. 25,532 (May 1, 2013).

On May 9, 2013, OFAC designated one individual and five entities pursuant to Executive Order 13382: Parviz KHAKI; Taghtiran Kashan Company; Aluminat; Par Amayesh Sanaat Kish; Pishro Systems Research Company; and Iranian-Venezuelan Bi-National Bank. 78 Fed. Reg. 28,702 (May 15, 2013). A May 9, 2013 State Department press statement, available at www.state.gov/r/pa/prs/ps/2013/03/205953.htm,

provides some background on each of these persons, who were sanctioned “because they provide the Iranian government goods, technology, and services that increase Iran’s ability to enrich uranium and/or construct a heavy water moderated research reactor, both of which are activities prohibited by UN Security Council Resolutions.”

On May 10, 2013, OFAC designated one individual and one entity pursuant to Executive Order 13382: Wen-Fu CHANG; and Trans Multi Mechanics Co. Ltd. 78 Fed. Reg. 32,303 (May 29, 2013). On May 15, 2013, OFAC designated two additional entities: Al Fida International General Trading and Al Hilal Exchange. 78 Fed. Reg. 30,396 (May 22, 2013). On May 23, 2013, OFAC designated six individuals and eight entities pursuant to E.O. 13382 based on their activities associated with Iran’s nuclear or weapons programs: Reza MOZAFFARINIA; Ali MAHDAVI; Farhad Ali PARVARESH; Hossein Nosratollah VAZIRI; Bahareh Mirza Hossein YAZDI; Farhad BUJAR; Aban Air; DFS Worldwide; Energy Global International FZE; Everex; Global Sea Line Co. Ltd.; Petro Green; Andisheh Zolal; and Zolal Iran Company. 78 Fed. Reg. 33,471 (June 4, 2013). On May 31, 2013, OFAC designated one entity, Pryvatne Aktsionerne Tovarystvo Aviakompaniya, and six of its aircraft, pursuant to E.O. 13382. 78 Fed. Reg. 34,707 (June 10, 2013).

On June 27, 2013, OFAC designated two entities and two individuals pursuant to E.O. 13382: Daedong Credit Bank, DCB Finance Ltd., Chol Sam KIM, and Mun San SON, all of North Korea. 78 Fed. Reg. 41,995 (July 12, 2013).

The State Department designated four Iranian entities and one Iranian individual on May 7, 2013 pursuant to E.O. 13382. 78 Fed. Reg. 42,584 (July 16, 2013). The Department determined that Aluminat, Pars Amayesh Sanaat Kish, Parviz Khaki, Pishro Systems Research Company, and Taghtiran Kashan Company “have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern.” *Id.*

The Department of State imposed sanctions pursuant to E.O. 13382 on December 12, 2013 on five Iranian entities engaged in providing the Iranian government goods, technology, and services that materially contribute to or pose a risk of materially contributing to Iran’s ability to enrich uranium, construct a heavy water-moderated research reactor, and develop its ballistic missile capabilities, all of which are prohibited by UN Security Council resolutions. A State Department media note, available at www.state.gov/r/pa/prs/ps/2013/218637.htm, provides background on the designated entities. Eyvaz Technic Manufacturing Company (“Eyvaz”) is involved in the procurement of sensitive items for use in Iran’s centrifuge program. The Exploration and Nuclear Raw Materials Production Company (“EMKA”) is a subsidiary organization of the Atomic Energy Organization of Iran (“AEOI”), which oversees uranium discovery, mining, and mineral processing operations in Iran. Maro Sanat Company (“Maro Sanat”) has worked for Iran’s Nuclear Reactors Fuel Company (“SUREH”) to acquire necessary items

for the organization's facilities. Navid Composite Material Company ("Navid Composite") is an Iran-based subsidiary of U.S.- and UN-designated Sanam Industrial Group, which was designated for its involvement in Iran's ballistic missile program. Negin Parto Khavar ("Negin Parto") is a key participant in a nuclear procurement network that brokers items for Iran's proscribed nuclear program, including for UN-designated entities

Also on December 12, 2013, OFAC designated several proliferators headed by Iran's Ministry of Defense for Armed Forces Logistics ("MODAFL"), which oversees Iran's ballistic missile program: Qods Aviation Industries; Iran Aviation Industries Organization; Reza Amidi, Fan Pardazan, and Ertebat Gostar Novin. OFAC also designated officials (Iradj Mohammadi Kahvarin and Mahmoud Mohammadi Dayeni) from and aliases (Kia Nirou, Block Nirou Sun Co., BNSA Co., and Neku Nirou Tavan Co.) for the Iranian nuclear procurement firm Neka Novin. 78 Fed. Reg. 77,203 (Dec. 20, 2013).

d. *Executive Order 12938*

Effective February 11, 2013, the U.S. Department of State imposed sanctions on Chinese and Iranian foreign persons based on a determination on December 21, 2012 that the Chinese and Iranian foreign persons had engaged in proliferation activities that warrant the imposition of measures pursuant to sections 4(b), 4(c), and 4(d) of Executive Order 12938. 78 Fed. Reg. 9769 (Feb. 11, 2013). The sanctioned persons are: Dalian Sunny Industries (China); Li Fangwei (China) [also known as: Karl Lee]; Ministry of Defense and Armed Forces Logistics (MODAFL) (Iran); Shahid Bakeri Industrial Group (SBIG) (Iran); and Shahid Sattari Ground Equipment Industries (Iran). *Id.* The measures imposed include a procurement ban, an assistance ban, an import ban, and suspension from participating in any export or licensed activities pursuant to the Arms Export Control Act. The measures are imposed for a period of two years.

e. *Chemical and biological weapons proliferation sanctions*

On June 21, 2013, the State Department determined that lifting sanctions on five Chinese entities, imposed on July 9, 2002 pursuant to Section 81(e) of the Arms Export Control Act (22 U.S.C. 2798(d)) and Section 11C(e) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2410c(d)), is important to the national security interests of the United States. 78 Fed. Reg. 38,782 (June 27, 2013). The five are: China Machinery and Equipment Import Export Corporation, China National Machinery and Equipment Import Export Corporation, CMEC Machinery and Electric Equipment Import and Export Company Ltd., CMEC Machinery and Electrical Import Export Company, Ltd., and China Machinery and Electric Equipment Import and Export Company.

f. *Missile sanctions*

On February 5, 2013, the State Department imposed sanctions on two Chinese persons for engaging in missile proliferation activities. 78 Fed. Reg. 9768 (Feb. 11, 2013). The sanctions were imposed pursuant to the Arms Export Control Act, as amended, and the Export Administration Act of 1979, as amended (as carried out under Executive Order 13222 of August 17, 2001). The persons sanctioned are Dalian Sunny Industries and Li Fangwei [also known as Karl Lee]. For two years, export licenses for export to these persons of MTCR annex items shall be denied and U.S. Government contracts relating to MTCR annex items shall be denied.

4. Terrorism

a. *Security Council actions*

On December 17, 2013, the Security Council adopted resolution 2129, extending the mandate of the Counter-Terrorism Committee Executive Directorate (“CTED”) until December 31, 2017, under the guidance of the Counter-Terrorism Committee (“CTC”). U.N. Doc. S/RES/2129. The CTC was established pursuant to resolution 1373 (2001) in the wake of the September 11 attacks. CTED was established pursuant to resolution 1535 (2004) to advise the CTC and facilitate technical assistance for national efforts to implement resolution 1371.

b. *U.S. targeted financial sanctions implementing Security Council resolutions*

(1) *Overview*

The United States implements its counterterrorism obligations under UN Security Council Resolution 1267 (1999), subsequent UN Security Council resolutions concerning al-Qaida/Afghanistan sanctions including Resolutions 2083 (2012), 1988 (2011), 1989 (2011), and 1373 (2001) through Executive Order 13224 of September 24, 2001. Executive Order 13224 imposes financial sanctions on persons who have been designated in the annex to the executive order; persons designated by the Secretary of State for having committed or for posing a significant risk of committing acts of terrorism; and persons designated by the Secretary of the Treasury for working for or on behalf of, providing support to, or having other links to, persons designated under the executive order. See 66 Fed. Reg. 49,079 (Sept. 25, 2001); see also *Digest 2001* at 881–93 and *Digest 2007* at 155–58.

The United States had previously made some Taliban-related sanctions designations pursuant to a separate executive order (E.O. 13129) and accompanying OFAC-administered sanctions regulations. For a discussion of E.O. 13129, see *Digest*

1991-99 at 1964-67. However, Executive Order 13268, issued by President George W. Bush in 2002, terminated E.O. 13129 and amended E.O. 13224 to include references to those sanctioned under E.O. 13129. See *Digest 2002* at 882-84. In 2011, OFAC revoked the Taliban Sanctions Regulations, leaving Taliban sanctions to be covered by its Global Terrorism Sanctions Regulations and E.O. 13224. 76 Fed. Reg. 31,470 (June 1, 2011).

(2) *Department of State*

In 2013, the Department of State announced the Secretary of State's designation of nine entities and fifteen individuals (including their known aliases) pursuant to E.O. 13224.

In a Federal Register notice dated January 29, 2013, the Department announced the designation (made on December 21, 2012) of Ahmed Abdullah Saleh al-Khazmari al-Zahrani. 78 Fed. Reg. 6172 (Jan. 29, 2013). The State Department issued a media note, available at www.state.gov/r/pa/prs/ps/2013/01/203238.htm, identifying al-Zahrani as a senior member of al-Qa'ida, a Saudi citizen, and wanted by the Kingdom of Saudi Arabia for participation in terrorist activities. On January 8, 2013, the Department designated Michel Samaha. 78 Fed. Reg. 3496 (Jan. 16, 2013).

On February 26, 2013, the Department announced the designation of the Commander Nazir Group ("CNG") and its sub-commander Malang Wazir in a media note, available at www.state.gov/r/pa/prs/ps/2013/02/205195.htm. 78 Fed. Reg. 13,931 (Mar. 1, 2013). The media note provides this information about CNG and Malang:

Since 2006, CNG has run training camps, dispatched suicide bombers, provided safe haven for al-Qa'ida fighters, and conducted cross-border operations in Afghanistan against the United States and its allies. In addition to its attacks against international forces in Afghanistan, CNG is also responsible for assassinations and intimidation operations against civilians in Afghanistan and Pakistan.

CNG leader Commander Nazir died in early-January 2013, but the group has since chosen a new leader, and in a statement vowed to continue the group's activities, including supporting al-Qa'ida and conducting attacks in Afghanistan. In the same statement, Malang was named as a part of CNG's top leadership. Acting as a sub-commander for CNG, Malang has overseen training centers and has been known to send fighters to Afghanistan to support the Taliban.

Although CNG and Malang have been behind numerous attacks against international forces in Afghanistan, the group has also been known to attack targets in Pakistan. For example, Malang claimed CNG responsibility for a March 2008 vehicle-borne improvised explosive device attack in front of an army brigade headquarters in Zari Noor, South Waziristan, Pakistan, which killed five Pakistani soldiers and injured 11 more. In May 2011, CNG broke a ceasefire agreement and attacked a Pakistani army camp in Wana, Pakistan, with missiles

and rockets.

Also on February 26, the Department announced that it had designated Iyad ag Ghali of Mali. See media note, available at www.state.gov/r/pa/prs/ps/2013/02/205196.htm. 78 Fed. Reg. 13,931 (Mar. 1, 2013). The media note provides the following information about Ghali:

Ghali is also listed by the United Nations 1267/1989 al-Qa'ida Sanctions Committee. The UN listing requires all member states to implement an assets freeze, a travel ban, and an arms embargo against Ghali. The UN action demonstrates international resolve in eliminating Ghali's violent activities in Mali and the surrounding region.

Iyad ag Ghali is the leader of Ansar al-Dine (AAD), an organization operating in Mali which cooperates closely with al-Qa'ida in the Islamic Maghreb (AQIM), a designated Foreign Terrorist Organization. Ghali created AAD in late 2011 because his effort to take over a secular Tuareg organization failed due to his extremist views.

On March 11, 2013, the Department designated Ansar al-Dine pursuant to E.O. 13224. 78 Fed. Reg. 17,745 (Mar. 22, 2013). A March 21, 2013 State Department media note, available at www.state.gov/r/pa/prs/ps/2013/03/206493.htm, includes the following further information about Ansar al-Dine:

AAD has also been listed by the United Nations 1267/1989 al-Qa'ida Sanctions Committee. ...

Ansar al-Dine is an organization operating in Mali which cooperates closely with al-Qa'ida in the Islamic Maghreb (AQIM), a designated Foreign Terrorist Organization. AAD was created in late 2011 after AAD's leader, Iyad ag Ghali, failed in an attempt to take over a secular Tuareg organization due to his extremist views. Ghali was designated by the Department of State under E.O. 13224 on February 26, 2013.

AAD has received support from AQIM since its inception in late 2011, and continues to maintain close ties to the group. AAD has received backing from AQIM in its fight against Malian and French forces, most notably in the capture of the Malian towns of Agulhok, Tessalit, Kidal, Gao, and Timbuktu, between January and April 2012. In AAD's March 2012 attack against the town of Aguelhok, the group executed 82 Malian soldiers and kidnapped 30 more. Before the French intervention in January 2013, Malian citizens in towns under AAD's control who did not comply with AAD's laws faced harassment, torture, or execution.

On April 16, 2013, the Department designated Abu Muhammad al-Jawlani. 78 Fed. Reg. 29,200 (May 17, 2013). On May 16, 2013, the Department announced the

designation of al-Jawlani, leader of the al-Nusrah Front, in a media note available at www.state.gov/r/pa/prs/ps/2013/05/209499.htm. The State Department had amended the designations of al-Qa'ida in Iraq ("AQI") under Executive Order 13224 in 2012 to include al-Nusrah Front as an alias. See *Digest 2012* at 526-27.

On June 20, 2013, the Department designated Abd Al-Ra'Ouf Abu Zaid Mohamed Hamza. 78 Fed. Reg. 40,545 (July 5, 2013). A July 3, 2013 State Department media note, available at www.state.gov/r/pa/prs/ps/2013/07/211513.htm, explains that Hamza, with three co-conspirators, had participated in an armed attack in Khartoum, Sudan in 2008 resulting in the deaths of a U.S. diplomat and a locally employed U.S. Embassy staff member.

On July 18, 2013, the Department designated Bahawal Khan. 78 Fed. Reg. 48,539 (Aug. 8, 2013). On August 26, 2013, the Department announced the designation of Bahawal Khan in a media note available at www.state.gov/r/pa/prs/ps/2013/08/212730.htm. As explained in the media note, Khan was appointed as new leader of the Commander Nazir Group in January 2013. As discussed, *supra*, the Department designated the Commander Nazir Group under E.O. 13224 in February 2013.

On July 24, 2013, the Department announced the designation of Bulut Yayla in a media note available at www.state.gov/r/pa/prs/ps/2013/07/212372.htm. Bulut Yayla is a trained operative of the Revolutionary People's Liberation Party/Front ("DHKP/C"), a Marxist terrorist organization which seeks the overthrow of the Turkish government and, among other terrorist acts, used a suicide bomber to attack U.S. Embassy Ankara on February 1, 2013. Notice of Yayla's designation appeared in the Federal Register on July 25, 2013. 78 Fed. Reg. 45,011 (July 25, 2013).

On August 2, 2013, the Department designated Mohamed Lahbous under E.O. 13224. 78 Fed. Reg. 52,230 (Aug. 22, 2013). The Department designated the Muhammad Jamal Network (a.k.a. al-Qa'ida in Egypt) as well as Muhammad Jamal individually under E.O. 13224 on August 28, 2013. 78 Fed. Reg. 62,002 (Oct. 10, 2013). An October 7, 2013 media note about the designations, available at www.state.gov/r/pa/prs/ps/2013/10/215171.htm, describes some of Jamal and his group's actions that form the basis of the designations:

Muhammad Jamal journeyed to Afghanistan in the late 1980s where he trained with al-Qa'ida (AQ) and learned how to construct bombs. Upon returning to Egypt in the 1990s, Muhammad Jamal became a top military commander and head of the operational wing of Egyptian Islamic Jihad (EIJ), then headed by AQ leader Ayman al-Zawahiri. Jamal has been arrested multiple times by Egyptian authorities for terrorist activities and was incarcerated for years in Egypt. Muhammad Jamal has developed connections with al-Qa'ida in the Islamic Maghreb (AQIM), AQ senior leadership, and al-Qa'ida in the Arabian Peninsula (AQAP) leadership including Nasir 'Abd-al-Karim 'Abdullah al-Wahishi and Qasim Yahya Mahdi al-Rimi.

Jamal formed the MJN after his release from Egyptian prison in 2011 and

established several terrorist training camps in Egypt and Libya. AQAP has provided funding to the MJN and Jamal has used the AQAP network to smuggle fighters into training camps. Suicide bombers have trained at MJN training camps, and Jamal established links with terrorists in Europe.

On October 30, 2013, the Department designated Qari Saifullah pursuant to E.O. 13224. 79 Fed. Reg. 1666 (Jan. 9, 2014).

On November 13, 2013, the Department announced the designations of two entities, Boko Haram and Ansaru, under section 1(b) of Executive Order 13224. 78 Fed. Reg. 68,500 (Nov. 14, 2013); see also media note available at www.state.gov/r/pa/prs/ps/2013/11/217509.htm. Boko Haram is a Nigeria-based militant group with links to al-Qa'ida in the Islamic Maghreb ("AQIM") that is responsible for thousands of deaths in northeast and central Nigeria over the last several years including targeted killings of civilians. Ansaru is a splinter faction of Boko Haram that kidnapped and executed seven international construction workers earlier in 2013.

On December 18, 2013, the Department announced the designation of Usamah Amin al-Shihabi under E.O. 13224 in a media note, available at www.state.gov/r/pa/prs/ps/2013/218883.htm. As described in the media note, Al-Shihabi is a key leader of Fatah al-Islam ("FAI"), a Lebanese-based militant group, and also the head of Syria-based al-Nusrah Front's Palestinian wing in Lebanon. 78 Fed. Reg. 77,773 (Dec. 24, 2013). Also on December 18, the Department announced the designation of the al-Mulathamun Battalion in a media note available at www.state.gov/r/pa/prs/ps/2013/218880.htm. 78 Fed. Reg. 76,888 (Dec. 19, 2013). The media note explains that the designated entity broke off from al-Qa'ida in the Islamic Maghreb ("AQIM") in 2012 and also includes the sub-group "Those Who Sign in Blood," and the recently created new entity "al-Murabitoun." This entity, under its various aliases, is responsible for multiple fatal terrorist attacks. On December 31, 2013, the Department designated three individuals, Ahmed Abu Khattalah, Abu Sufian Ibrahim Ahmed Hamuda bin Qumu, and Saifallah Ben Hassin as well as three organizations Ansar al-Shari'a in Tunisia, Ansar al-Shari'a in Darnah, and Ansar al-Shari'a in Benghazi under E.O. 13224. 79 Fed. Reg. 2241, 2242, 2243 (Jan. 13, 2014).

Many of these U.S. designated entities and individuals are also listed by the Security Council's 1267/1989 Committee. Yassin Chouka, Monir Chouka, Mevlut Kar, and MUJWA are listed by the United Nations 1267/1989 al-Qa'ida Sanctions Committee. See www.un.org/sc/committees/1267/index.shtml. The new 1988 (Afghanistan/Taliban) Committee also lists many of the same individuals and entities that have been designated by the United States, including Qari Zakir, the Haqqani Network. See www.un.org/sc/committees/1988.

The State Department also delisted four individuals who had been designated under E.O. 13224. On June 19, 2013, the Department revoked the designations of Nayif Bin-Muhammad al-Qahtani and Eric Breining. 78 Fed. Reg. 39,057 (June 28, 2013). On

September 20, 2013, the State Department revoked the designations of Fahd Mohammed Ahmed al-Quso and Badruddin Haqqani as Specially Designated Global Terrorists pursuant to Section 1(b) of E.O. 13224. 78 Fed. Reg. 59,751 (Sept. 27, 2013).

(3) *OFAC*

(i) *OFAC designations*

OFAC designated numerous individuals (including their known aliases) and entities pursuant to Executive Order 13224 during 2013. The designated individuals and entities typically are owned or controlled by, act for or on behalf of, or provide support for or services to individuals or entities the United States has designated as terrorist organizations pursuant to the order. See 78 Fed. Reg. 14,622 (Mar. 6, 2013) (one individual—Mullah Ahmed Shah NOORZAI); 78 Fed. Reg. 15,124 (Mar. 8, 2013) (one individual—Yahya Abu HAMMAM); 78 Fed. Reg. 34,705 (June 10, 2013) (three individuals—Rodrigue Elias MERHEJ, Lidia KIM, and Hamid ARABNEJAD—and ten entities—Ukrainian-Mediterranean Airlines, UR-CJW, UR-CKF, UR-CKG, UR-CKJ, UR-CKX, UR-CKY, UR-CKZ, Kyrgyz Trans Avia, and Sirjanco Trading L.L.C); 78 Fed. Reg. 36,302 (June 17, 2013) (four individuals—Ali Ibrahim AL-WATFA, Ali Ahmad CHEHADE, Abbas Loutfe FAWAZ, and Hicham Nmer KHANAFER); 78 Fed. Reg. 36,827 (June 19, 2013) (one individual—'Abd-al-Hamid AL-MASLI); 78 Fed. Reg. 52,823 (Aug. 26, 2013) (one individual—Umar Siddique Kathio AZMARAI—and one entity, Jamia Taleem-UI-Quran-Wal-Hadith Madrassa); 78 Fed. Reg. 53,193 (Aug. 28, 2013) (four individuals—Khalil Yusif HARB, Muhammad Yusuf Ahmad MANSUR, Muhammad QABALAN, and Muhammad KAWTHARANI); 78 Fed. Reg. 59,097 (Sept. 25, 2013) (two individuals—Afif ABDUL MAJID and Said Ahmad SUNGKAR); 78 Fed. Reg. 79,078 (Dec. 27, 2013) (two individuals—'Abd al-Wahhab Muhammad 'Abd al-Rahman AL-HUMAYQANI and 'Abd al-Rahman bin 'Umayr AL-NU'AYMI).

During 2013 the Security Council's 1267/1989 and 1988 Committee added some individuals to its lists who had been designated by the United States. See www.un.org/sc/committees/1267/index.shtml and www.un.org/sc/committees/1988.

(ii) *OFAC de-listings*

In 2013, OFAC determined that eight individuals, who had been designated pursuant to E.O. 13224, should be removed from the Treasury Department's list of Specially Designated Nationals and Blocked Persons. 78 Fed. Reg. 10,000 (Feb. 12, 2013) (five individuals); 78 Fed. Reg. 23,332 (Apr. 18, 2013) (one individual); 78 Fed. Reg. 26,424 (May 6, 2013) (one individual); 78 Fed. Reg. 79,078 (Dec. 27, 2013) (one individual).

5. Magnitsky Act

In 2013, the U.S. Government began implementation of the Sergei Magnitsky Rule of Law Accountability Act of 2012 (“Magnitsky Act”). On April 12, 2013, the State Department submitted to Congress the first list of persons determined to meet the criteria in the Magnitsky Act, which include responsibility for the detention, abuse, or death of Sergei Magnitsky, or involvement in certain other gross human rights violations in Russia. See April 12, 2013 Department press statement, available at www.state.gov/r/pa/prs/ps/2013/04/207436.htm. The names of those on the first “Magnitsky list” are available at www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20130412.aspx. Senior State Department officials discussed the list—which included 18 people: 16 associated with the persecution and death of Sergei Magnitsky and two associated with other killings—in a background briefing, available at www.state.gov/r/pa/prs/ps/2013/04/207460.htm. Excerpts follow from the April 12, 2013 briefing.

* * * *

Those 18 people were placed on the list following a thorough process of collecting information, including from NGOs, from Congress, and from our own sources, and then a process by which agencies of the U.S. Government, including especially OFAC from the Treasury Department, reviewed the information about them to determine whether we had met a reasonable standard to include them on this list.

As of today, the people on this list will have any assets in the United States blocked... and they will not be able to receive a visa.

Putting a name on this list is a serious undertaking. It has legal ramifications. Whenever you are freezing the assets of individuals, you better know what you’re doing and why, and you better have a reasonable, demonstrable basis for doing so. We believe we have that basis. We think that the purposes of the Magnitsky Act are the support of human rights. We applaud those purposes. Human rights is part of our relationship with the Russians. It is sometimes a difficult part, but we have implemented this law in a fair spirit and diligently.

We have notified the Congress both in writing and in person. We are going to be notifying the Russians, although the list is now public and I’m sure the Russian blogosphere is lit up with discussion of the names.

The names include six persons who were placed there because of their position in the initial investigation and arrest of Magnitsky. They were senior investigators, supervisory, and other personnel of the Interior Ministry; one from the General Prosecutors Office; four judges from the Tverskoy court; two prison officials, one from the Matrosskaya Tishina prison, the head of the pre-trial prison detention facility there, the other the head of the pre-trial detention facility at Butyrka prison; plus two heads of tax authority offices. They were associated—these people—with various stages of the campaign against Sergei Magnitsky.

The standard that applied to the review of these and the determination under the Magnitsky Act is the same standard that applies to other economic sanctions determinations of individuals. And for those of you interested, the relevant standard is spelled out in the Administrative Procedures Act. It is an across-the-government standard and it's important that that standard be maintained.

* * * *

6. Threats to Democratic Process

a. *Burma*

In 2013, the United States continued to modify sanctions in response to the government of Burma's implementation of democratic reforms, while maintaining targeted sanctions on those who pose a threat to Burma's peace and stability.

(1) *New executive order prohibiting importation of jadeite and rubies from Burma*

On August 6, 2013, President Obama issued Executive Order 13651, "Prohibiting Certain Imports of Burmese Jadeite and Rubies." 78 Fed. Reg. 48,793 (Aug. 9, 2013). The E.O. was issued pursuant to IEEPA, the NEA, the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Public Law 110-286) (the "JADE Act"), and section 301 of title 3, United States Code. In Section 1, the E.O. prohibits the importation into the United States of any jadeite or rubies mined or extracted from Burma and any articles of jewelry containing jadeite or rubies mined or extracted from Burma. Section 7 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to implement the import prohibition. On December 3, 2013, OFAC implemented E.O. 13651 in part by removing the "JADE Act" tag from the list of Specially Designated Nationals ("SDNs"). 78 Fed. Reg. 78,515 (Dec. 26, 2013). As explained in the Federal Register notice:

...[A]s of August 7, the effective date of E.O. 13651, the financial and blocking provisions of section 5(b) of the JADE Act do not apply. Except as authorized or exempt, transactions with persons included on the Specially Designated Nationals and Blocked Persons List ("SDN List") continue to be prohibited pursuant to the International Emergency Economic Powers Act ("IEEPA"). Accordingly, while OFAC is updating the SDN List to remove the [JADE Act] tag that had publicly identified the following individuals and entities as subject to the financial and blocking provisions of Section 5(b) of the JADE Act, transactions and dealings with these individuals and entities continue to be prohibited pursuant to IEEPA...

(2) *E.O. 13619*

As discussed in *Digest 2012* at 535-39, President Obama issued Executive Order 13619 “Blocking Property of Persons Threatening the Peace, Security, or Stability of Burma,” on July 11, 2012. On July 2, 2013, the State Department designated Thein HTAY, Chief of Defence Industries and Chief of Army Ordnance Industries in Burma, pursuant to E.O. 13619. 78 Fed. Reg. 41,995 (July 12, 2013). On December 17, 2013, OFAC designated Kyaw Nyunt OO; Asia Metal Company Ltd.; Excellence Mineral Manufacturing Co., Ltd.; and Soe Min Htaik Co. Ltd. 78 Fed. Reg. 78,514 (Dec. 26, 2013).

(3) *E.O. 13448*

As discussed in *Digest 2007* at 807-11, President Bush signed Executive Order 13448, “Blocking Property and Prohibiting Certain Transactions Related to Burma” in 2007. On January 24, 2013, OFAC removed and unblocked from the list of those designated under E.O. 13448 one individual, U Kyaw THEIN. 78 Fed. Reg. 6179 (Jan. 29, 2013). On February 22, 2013, OFAC designated an additional entity pursuant to E.O. 13448, Ayeyarwady Bank. 78 Fed. Reg. 13,761 (Feb. 28, 2013).

(4) *Reporting requirements for responsible investment in Burma*

In 2013, the reporting requirements for U.S. investment in Burma, announced in 2012, took effect. See *Digest 2012* at 538 for a description of the requirements. The State Department announced on May 23, 2013 in a media note available at www.state.gov/r/pa/prs/ps/2013/05/209869.htm, that the Office of Management and Budget had given final approval to the reporting requirements and that the first reports would be due July 1, 2013. The May 23 media note further explains:

U.S. persons are required to report on a range of policies and procedures with respect to their investments in Burma, including human rights, labor rights, land rights, community consultations and stakeholder engagement, environmental stewardship, anti-corruption, arrangements with security service providers, risk and impact assessment and mitigation, payments to the government, any investments with the Myanmar Oil and Gas Enterprise (MOGE), and contact with the military or non-state armed groups.

The Department of State will use the information collected as a basis to conduct informed consultations with U.S. businesses to encourage and assist them to develop robust policies and procedures to address a range of impacts resulting from their investments and operations in Burma. We also intend the public report to empower civil society to take an active role in monitoring investment in Burma and to work with companies to promote investments that

will enhance broad-based development and reinforce political and economic reform.

b. Mali

After the inauguration of the new president of the Republic of Mali in September 2013, the United States lifted restrictions on assistance to the government of Mali, which had been imposed since the March 2012 coup in that country. A September 6, 2013 State Department press statement, available at www.state.gov/r/pa/prs/ps/2013/09/213910.htm, explains that the resumption of assistance followed a determination that a democratically-elected government had taken office in Mali.

For discussion of terrorism-related sanctions on persons in Mali, see Section A.4.b.(2), *supra*.

c. Zimbabwe

On April 24, 2013, OFAC issued General License No. 1 under the Zimbabwe sanctions program. The general license authorizes all transactions involving Agricultural Development Bank of Zimbabwe and Infrastructure Development Bank of Zimbabwe, subject to certain limitations. 78 Fed. Reg. 41,192 (July 9, 2013).

Effective May 2, 2013, OFAC removed from its list of those designated under the Zimbabwe sanctions program the names of eight individuals and one entity whose property and interests in property were unblocked pursuant to Executive Order 13288 of March 6, 2003, "Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe," as amended by Executive Order 13391 of November 22, 2005, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe." 78 Fed. Reg. 28,290 (May 14, 2013).

d. Cuba

On January 31, 2013, President Obama delegated to the Secretary of State the authority to suspend the provisions of Title III of the Cuban Liberty and Democratic Solidarity ("LIBERTAD") Act of 1996 (Public Law 104-114; 22 U.S.C. §§ 6021-6091). 78 Fed. Reg. 9573 (Feb. 8, 2013). Under this authority, the Secretary of State may suspend the right to bring an action against those who traffic in property confiscated by the Cuban government for six-month periods if suspension "is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba." 22 U.S.C. § 6085(c)(2). The suspension has occurred every six months since August 1, 1996.

7. Armed Conflict: Restoration of Peace and Security**a. *Democratic Republic of the Congo***

Effective January 3, 2013, OFAC designated two individuals pursuant to E.O. 13413, “Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of Congo”: Colonel Innocent KAINA; and Colonel Baudoin NGARUYE. 78 Fed. Reg. 2722 (Jan. 14, 2013). Also on January 3, 2013, OFAC designated two entities pursuant to E.O. 13413: Forces Democratiques de Liberation du Rwanda; and M23. On January 24, 2013, OFAC designated Jean-Marie Rugerero RUNIGA and Eric BADEGE. 78 Fed. Reg. 6180 (Jan. 29, 2013).

b. *Liberia*

On July 22, 2004, President Bush issued Executive Order 13348 to address the actions of former Liberian President Charles Taylor and others. See *Digest 2004* at 919-22. On April 2, 2013, OFAC determined that circumstances no longer warranted the imposition of sanctions on 12 persons previously designated under E.O. 13348. 78 Fed. Reg. 21,007 (Apr. 8, 2013).

On December 10, 2013, the UN Security Council adopted resolution 2128, renewing the sanctions regime relating to Liberia as established by resolution 1521. U.N. Doc. S/RES/2128.

c. *Central African Republic*

See Chapter 17.B.5 for a discussion of UN Security Council resolution 2127 on the Central African Republic, adopted on December 5, 2013. The resolution establishes a sanctions regime and an arms embargo.

d. *Somalia*

See Chapter 17.B.7 for a discussion of UN Security Council resolution 2093, adopted on March 6, 2013, which partially lifted the arms embargo on the government of Somalia. The Security Council also adopted resolution 2111 on Somalia on July 24, 2013, renewing the mandate of the Somalia and Eritrea Monitoring Group which monitors sanctions imposed on Somalia. U.N. Doc. S/RES/2111. Resolution 2111 also further modifies the arms embargo on Somalia with regard to certain equipment for Somalia’s security forces and supplies to UNISOM and its partners as well as UN and humanitarian groups.

e. Côte d'Ivoire

On April 25, 2013, the Security Council adopted resolution 2101, extending the arms embargo and financial and travel restrictions against Côte d'Ivoire until April 30, 2014. U.N. Doc. S/RES/2101. Resolution 2101 also extends the mandate of the Group of Experts monitoring sanctions and other measures on Côte d'Ivoire.

f. Libya

On March 14, 2013, the Security Council adopted resolution 2095 modifying the arms embargo on Libya. U.N. Doc. S/RES/2095.

g. Iraq

(1) UN Security Council resolution 2107

On June 27, 2013, the UN Security Council unanimously adopted resolution 2107, which removes from Iraq most of its obligations under Chapter VII of the UN Charter. The obligations removed from Iraq include those concerning the return of remains and property of Kuwaiti and third-country nationals. The resolution calls on the Iraqi Government to continue cooperation with the International Committee of the Red Cross ("ICRC") by providing information on the Kuwaiti and third-country nationals and facilitating the ICRC's search for missing persons, and to continue efforts to search for missing Kuwaiti property. The resolution also tasks the Special Representative of the Secretary-General and the Head of the United Nations Assistance Mission for Iraq ("UNAMI") with further facilitating the return of such remains and property. Iraq remains under the obligation to pay outstanding U.N. Compensation Commission awards, which Iraq is anticipated to complete in 2015. On June 28, 2013, Secretary Kerry made the following statement, available at <http://iraq.usembassy.gov/pr-062813.html>, welcoming the steps that led to the conclusion of resolution 2107:

The United States congratulates the Governments of Iraq and Kuwait on successfully resolving key bilateral and international issues over the past year, which helped result in today's milestone decision by the UN Security Council. It's testament to the commitment of two neighbors to a new relationship that we're witnessing the transfer of the Chapter VII mandate and responsibilities of the UN High-Level Coordinator for Gulf War Missing Kuwaiti and Third-Country Nationals and the Return of Kuwaiti Property to the UN Assistance Mission in Iraq.

We further welcome the completion of the border maintenance work and the establishment of technical arrangements between Iraq and Kuwait as recommended by the United Nations Iraq-Kuwait Boundary Demarcation Commission. As I discussed during my visit to Kuwait yesterday, we will continue

to support both Kuwait and Iraq so they continue to build further confidence and cooperation, strengthen their relationship, and enhance regional stability.

(2) *Continuation of national emergency*

As discussed in *Digest 2011* at 508-09, President Obama has annually continued the national emergency declared by Executive Order 13303 with respect to the stabilization of Iraq. The President continued the national emergency again in 2013. 78 Fed. Reg. 30,195 (May 21, 2013). By continuing the national emergency, the President also extended the extraordinary immunities for the Development Fund for Iraq another year, though both countries agreed that it would be the final such extension. See Chapter 18.A.3.a. for a discussion of the meetings of the U.S.-Iraqi Political and Diplomatic Joint Coordination Committee (“PDJCC”).

8. Transnational Crime

On January 23, 2013, OFAC designated eight individuals and one entity pursuant to Executive Order 13581 of July 24, 2011, “Blocking Property of Transnational Criminal Organizations”: Marina Samuilovna Goldberg; Jiro Kiyota; Kazuo Uchibori; Antonio Zagaria; Carmine Zagaria; Nicola Zagaria; Pasquale Zagaria; and Inagawa-Kai. 78 Fed. Reg. 7485 (Feb. 1, 2013).

On July 24, 2013, OFAC designated five individuals and two entities pursuant to E.O. 13581: Marco Di Lauro; Mario Riccio; Antonio Mennetta; Mariano Abete, Rosario Guarino; Avuar OOO, and Guga Arm SRO. 78 Fed. Reg. 49,334 (Aug. 13, 2013).

On October 30, 2013, OFAC designated six individuals and four entities pursuant to E.O. 13581: Artur Badalyan; Grigory Victorovich Lepsveridze; Vadim Mikhaylovich Lyalin; Igor Leonidovich Shlykov; Sergey Yevgeniyevich Moskalenko; Yakov Rybalskiy; Gurgen House FZCO; Fasten Tourism LLC; M S Group Invest OOO; and Meridian Jet Management GMBH. 78 Fed. Reg. 66,989 (Nov. 7, 2013).

On December 19, 2013, OFAC designated four individuals pursuant to E.O. 13581: Hirofumi Hashimoto; Tadashi Irie; Shoroku Ishida; and Toshio Masaki. 78 Fed. Reg. 79,726 (Dec. 31, 2013).

B. EXPORT CONTROLS

1. Resolution of Export Control Violations

a. Raytheon

On April 30, 2013, the State Department announced the resolution of an enforcement action against Raytheon Company. A Department media note, available at www.state.gov/r/pa/prs/ps/2013/04/208655.htm, summarizes the administrative

agreement reached with Raytheon to address its violations of the Arms Export Control Act (“AECA”) (22 U.S.C. § 2778) and the International Traffic in Arms Regulations (“ITAR”)(22 C.F.R. parts 120-130), including the payment of \$8 million in civil penalties and remedial expenditures:

The Department’s Office of Defense Trade Controls Compliance in the Bureau of Political-Military Affairs determined that Raytheon’s numerous violations demonstrated a recurring, corporate-wide weakness in maintaining effective ITAR controls. Over the course of many years, Raytheon business units have disclosed to the Department hundreds of ITAR violations, largely consisting of failures to properly manage Department-authorized agreements and temporary import and export authorizations. The violations included inaccurate tracking, valuation and documentation of temporary exports and imports of controlled hardware, manufacture of such hardware by Raytheon’s foreign partners in excess of the approved amounts, and failures to timely obtain and submit required documents. Raytheon repeatedly discovered and disclosed such violations to the Department, in some cases finding that previously reported remedial measures failed to prevent or detect additional similar violations subsequently disclosed.

Under the terms of a four year Consent Agreement with the Department, Raytheon will pay a civil penalty of \$8 million. The State Department agreed to suspend \$4 million of this amount on the condition that the funds have or will be used for Department-approved pre- and post-Consent Agreement remedial compliance measures. In addition, an external Special Compliance Official will be engaged by Raytheon to oversee the Consent Agreement, which will also require the company to conduct two external audits of its compliance program during the Agreement term as well as implement additional compliance measures.

Raytheon disclosed nearly all of the ITAR violations resolved in this settlement voluntarily to the Department, acknowledged their serious nature, cooperated with Department reviews, and implemented or has planned extensive remedial measures. For these reasons, the Department has determined that an administrative debarment of Raytheon is not appropriate at this time.

b. *Aeroflex*

On August 9, 2013, the State Department announced that it had entered into a consent agreement with Aeroflex Incorporated of Plainview, New York. A Department media note, available at www.state.gov/r/pa/prs/ps/2013/08/213002.htm, provides information about the administrative settlement, which addressed alleged violations of the AECA and ITAR:

The settlement was reached after an extensive compliance review by the State Department's Office of Defense Trade Controls Compliance in the Bureau of Political-Military Affairs and addresses hundreds of alleged civil violations of the AECA and ITAR. This settlement highlights the Department's responsibility to protect sensitive U.S. defense hardware and technology from unauthorized use.

The Office of Defense Trade Controls Compliance determined that Aeroflex demonstrated inadequate corporate oversight and a systemic and corporate-wide failure to properly determine export control jurisdiction over commodities, leading to numerous violations during the period of 1999-2009. Over the course of many years, Aeroflex business units disclosed to the Department hundreds of ITAR violations, largely consisting of unauthorized exports resulting from the failure to properly establish jurisdiction over defense articles and technical data. The violations included unauthorized exports and re-exports of ITAR-controlled electronics, microelectronics, and associated technical data and causing unauthorized exports of ITAR-controlled microelectronics by domestic purchasers.

Under the terms of the two-year Consent Agreement with the Department, Aeroflex will pay a civil penalty of \$8 million. The State Department agreed to suspend \$4 million of this amount on the condition the Department approves expenditures for self-initiated, pre-Consent Agreement remedial compliance measures and Consent Agreement-authorized remedial compliance costs. In addition, an Internal Special Compliance Official will be engaged by Aeroflex to oversee the Consent Agreement, which will also require the company to conduct two audits of its compliance program during the Agreement term as well as implement additional compliance measures, such as improved policies and procedures, and additional training for staff and principals.

Aeroflex disclosed nearly all of the ITAR violations resolved in this settlement voluntarily to the Department, acknowledged their serious nature, cooperated with Department reviews, and since 2008 has implemented or has planned extensive remedial measures, including the restructuring of its compliance organization, the institution of a new testing protocol of its commodities, and a revised company-wide ITAR compliance program. For these reasons, the Department determined that an administrative debarment of Aeroflex was not appropriate at this time.

c. *Meggitt-USA, Inc.*

On August 23, 2013, the State Department announced the conclusion of an administrative settlement with Meggitt-USA, Inc. to resolve alleged violations of the AECA and ITAR. A Department media note, available at www.state.gov/r/pa/prs/ps/2013/08/213483.htm, provides further information about the settlement:

Over the course of several years, Meggitt subsidiaries and business units disclosed to the Department hundreds of ITAR violations beginning in the mid-1990s, largely involving the unauthorized export of defense articles, including technical data, the unauthorized provision of defense services, violation of the terms of provisos or other limitations of license authorizations, and the failure to maintain specific records involving ITAR-controlled transactions.

Under the terms of the 30-month consent agreement with the Department, Meggitt is assessed a civil penalty of \$25 million, of which \$3 million will be paid in installments and the remainder suspended on the condition the Department approves expenditures for self-initiated, pre-consent agreement remedial compliance measures and consent agreement-authorized remedial compliance costs. In addition, an Internal Special Compliance Official will be engaged by Meggitt to oversee the consent agreement, which will also require the company to implement additional compliance measures, including enhanced policies and procedures, to review external audit programs and conduct audit measures pursuant to the agreement, to review jurisdictional determinations of commodities, and report on system upgrades and improvements.

Meggitt disclosed nearly all of the ITAR violations resolved in this settlement voluntarily to the Department, ... and implemented or has planned extensive remedial measures throughout its subsidiaries. For these reasons, the Department determined that an administrative debarment or suspension of Meggitt was not appropriate at this time.

d. *Debarment*

On February 5, 2013, the State Department published in the Federal Register a list of 22 persons subject to statutory debarment under the AECA and ITAR. 78 Fed. Reg. 8218 (Feb. 5, 2013). On November 7, 2013, the State Department published in the Federal Register a list of 37 persons subject to statutory debarment under the AECA and ITAR. 78 Fed. Reg. 66,984 (Nov. 7, 2013). Section 127.7(c) of ITAR subjects persons convicted of violating, or conspiring to violate, section 38 of the AECA to statutory debarment. Persons subject to statutory debarment are prohibited from participating directly or indirectly in the export of defense articles or the furnishing of defense services, for which a license is required. Statutory debarment is based on conviction in a criminal proceeding, conducted by a United States Court. The Federal Register notice identifies for each debarred individual the court in which the criminal proceeding occurred as well as other identifying information. Debarment is for an initial three-year period, after which the identified persons/entities remain debarred unless export privileges are reinstated.

On November 27, 2013, the State Department announced the administrative debarment of LeAnne Lesmeister, a former employee of Honeywell International, in a media note available at www.state.gov/t/pm/rls/prsrl/2013/218216. As explained in the media note, Honeywell had voluntarily disclosed ITAR violations carried out by Lesmeister, its former senior export compliance officer in its Clearwater, Florida site,

between 2008 and 2012. Lesmeister fabricated various export control documents on which Honeywell relied, resulting in the export of defense articles, technical data, and defense services without State Department approval. The Department initiated an administrative proceeding before an Administrative Law Judge relating to the violations. The former Honeywell employee failed to answer the formal charges, resulting in the administrative debarment. The debarment is for three years after which an application for reinstatement may be submitted. No civil penalties were assessed. Notice of the debarment was published in the Federal Register on December 3, 2013. 78 Fed. Reg. 72,745 (Dec. 3, 2013).

2. Export Control Reform

On April 16, 2013, the Department of State announced that the U.S. Government had issued the first in a series of new rules regarding the export of munitions and commercial items with military applications. See State Department media note, available at www.state.gov/r/pa/prs/ps/2013/04/207597.htm. The first set of new rules define items regulated for export under the U.S. Munitions List's Category VIII—Aircraft and Associated Equipment, and Category XIX—Gas Turbine Engines. The Federal Register Notice of the final rule, "Amendment to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform," was published on April 16, 2013 with an effective date of October 15, 2013. 78 Fed. Reg. 22,740 (Apr. 16, 2013). In total, 19 categories of the U.S. Munitions List will be revised under Export Control Reform. The April 16 media note explains further:

Based on a multi-year series of technical and policy reviews by representatives of the Departments of State, Defense, Commerce, and other agencies, these reforms will move less sensitive items, such as parts and components, from the State Department's U.S. Munitions List to the Commerce Control List. The revised control lists have been developed in close consultation with the private sector and Congress. Each revised category will become effective 180 days after it is published in the Federal Register to allow companies and their customers time to adapt their internal business practices to the new controls. Work on the remaining categories is ongoing and they will similarly be notified to Congress and published over the coming months.

On July 10, 2013, the State Department announced the issuance of the second set of new final rules redefining how the United States protects sensitive technology. See July 10, 2013 State Department media note, available at www.state.gov/r/pa/prs/ps/2013/07/211747.htm. The second set of rules relate to four categories on the U.S. Munitions List administered by the State Department: Category VI—Vessels of War and Special Naval Equipment; Category VII—Ground Vehicles; Category XIII—Materials and Miscellaneous Articles; and Category XX—Submersible

Vessels and Related Articles; and those lesser sensitive items previously controlled in these categories that are moved to the Commerce Control List.

On July 24, 2013, Beth M. McCormick, Deputy Assistant Secretary of State for the Bureau of Political-Military Affairs provided an update on the Export Control Reform process at a conference held by the U.S. Department of Commerce, Bureau of Industry and Security. Her remarks are available at www.state.gov/t/pm/rls/rm/2013/212545.htm.

The Department of Commerce issued a final rule, effective October 15, 2013, revising the Export Administration Regulations (“EAR”) to make the Commerce Control List (“CCL”) clearer as part of President Obama’s overall export control reform initiative. 78 Fed. Reg. 61,874 (Oct. 4, 2013)

Cross References

Foreign terrorist organizations, **Chapter 3.B.1.c.**

Institutions of primary money laundering concern, **Chapter 3.B.4.a.**

Organized crime, **Chapter 3.B.5.**

UN Third Committee resolutions on human rights abuses in Syria, Iran, North Korea, and Burma, **Chapter 6.A.2.**

HRC actions on Syria, **Chapter 6.A.4.b.**

Designations under the Child Soldiers Prevention Act, **Chapter 6.C.3.b.**

Attachment of blocked assets, **Chapter 10.A.2.a.**

Syria, **Chapter 17.B.1.**

Democratic Republic of Congo, **Chapter 17.B.2.**

Central African Republic, **Chapter 17.B.5.**

Somalia, **Chapter 17.B.7.**

DPRK, **Chapter 19.B.6.a.**

Iran, **Chapter 19.B.6.b.**

Implementation of UNSCR 1540, **Chapter 19.D.**